

# California Journal

THE MONTHLY REPORT OF STATE GOVERNMENT AND POLITICS

## ***Californians say 'no' to growth***



***The computer threat to privacy***

***Counties fear farm-pest invasion***

***Agriculture loses political clout***

***Consumers praise auto bureau***

***Tuition-voucher test ends year***

**July 1973**

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## *At home in a melon patch*

The thermometer read 102, but still there was a crowd in Capitol Park on the 20th for a "summer melon roundup" organized by the California Farm Bureau Federation. There were melons of all sorts being dished up free by 4-H Club boys and girls, and the Governor strolled over from his office a melon-toss away, smiling and disarmingly accessible despite the quadrant of bodyguards posted about him. The South Gate City, Youth Band happened by, as luck would have it, and played a few numbers before clustering around the Governor, who obligingly wrote "Ronald Reagan" on whatever was thrust before him, quipping to one delighted musician, "I'd never seen watermelon seeds come out of a tuba before." He did not go on from there, as we thought he might, and discuss his tax-limitation scheme, which has rarely been far from the gubernatorial tongue these days. "Isn't he gracious" marveled one of the band's chaperones. "He certainly is accommodating." When he's ready to talk, these charmed folk will surely listen. After all, there's nothing more sincere than a melon patch.

As for the free fruit, the watermelons were ripe and the cantaloupe about a week premature.

## *Through a glass, darkly*

It was familiar turf — the dining room of the Senator Hotel. And the longtime lobbyist was loosening up under the soothing influence of several sniffers and repeated assurances that all comments were off the record. As the steak was placed before him, he warmed to his subject, politics and the legislature he has known for nearly 30 years, and his comments went something like this:

Artie Samish — he's a myth! Oh, he may have been influential in the 30s, but in the years that I could observe him, in the late 40s, it was just the opposite: if Samish was behind a bill it was in trouble. Oh, he got what he wanted on the liquor and horse-racing bills, but who cared? By the time the *Collier's* articles appeared ["The Secret Boss of California", 1949], it was all over.

The lobbyist swirled the liquor in the snifter, savoring both the aroma of juniper and the shocked reactions of his dinner-table interlocutors — outsiders all. Waving aside their incredulity with a tolerant smile, he was off again, this time commenting on the quality of the Legislature in these enlightened years:

I say it's gone downhill. The fulltime salary hasn't improved the quality of the members. A lot of them are younger, I grant you, but they don't know much. They come here practically right out of school, some of them, and they never stick with anything long enough to really get into it. And they're just not around as much. I mean, have you ever met anyone around here who's really much interested in work? In the old days, when they got no *per diem* for being here and not enough salary to live on full time, when they came to Sacramento they worked day and night to get their job done so they could go home. Meetings were regularly held at night, and we all lived in the hotels, and you could readily get a chance to talk.

Oh, I'm a great believer in the citizen-legislator — to hell with the "professionals"!

The steak remained scarcely scarred, but the snifter had gone through another change as the conversation continued, shifting now to lobbying and how he represents his powerful industrial group:

My style is one-to-one. You ask me why I rarely testify at committee hearings. Well, it involves you. If I get up there at a committee hearing, you'll write about the hearing and my name will appear in the paper. And when that happens day after day, some people might get the idea that I'm influential because of it, and I don't want that.

There's another reason for the public reticence, though, it develops, and it's simply that it happens not to be particularly productive to the lobbyist to testify:

Now, that hasn't changed. You don't think there's a legislator who walks into a hearing room without knowing anything about any bill that matters, or how he's going to vote on it? You either get the votes before the hearing or you don't get them. And as for publishing how they vote in committee — what difference does that make? Do you think the chairman doesn't know where the votes are before he calls the roll? If he gets the wrong rollcall too often, well, he just won't be the chairman for long.

The lobbyist concedes that it sounds like little has changed despite all the "reforms" of the postwar years in California government. What might improve matters?

Well, if we could roll things back to what they were . . . Like I say, I'm a great believer in the citizen-legislator.

## *New perspective*

The 70 or so members of the Capitol press corps will be moving this summer into a new office building whose comfort and proximity to the Capitol has already commended it to a number of lobbyists. First to move in, on August 1st, will be the *Los Angeles Times'* bureau of four reporters and a secretary. The *Times* has leased 1,100 square feet on the top floor of the new office building at 10th and L Streets, a location that offers a view that is not only detached from but looks down upon the Capitol. The rest of the press corps will be moving in September, with only a few correspondents tucked away in another building a block away. Most of the newspapers will cluster around the Associated Press on the new building's third floor, where their representatives can benefit from the agency's dispatches to their own newsrooms — so they know what the home office is getting. The other major wire service, United Press International, will locate in the same building, but probably on another floor.

With the evacuation — ordered by the Legislature's Joint Rules Committee in the light of engineering studies that found the century-old Capitol to be structurally unsafe — the state's traditional subsidy of the press, in the form of rent-free accommodations, will end. So far, at least, having to pay rent hasn't discouraged any newspaper or broadcaster to close its Sacramento office.

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# Californians Are Saying 'No' to Growth in a Spreading Revolt That Makes Strange Allies

By TOM HARRIS

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Californians are voicing a powerful territorial imperative against overcrowding in a series of uncoordinated skirmishes that now threaten to merge into a single, massive assault against unchecked growth. Years of unconnected campaigns to clear the air, clean up polluted waterways, save the coastline, block freeways, and preserve some semblance of a natural environment are now generating strong currents into a magnetic slow-growth movement.

The synergism is, at this point, not well understood by either side. The development interests — bankers, chambers of commerce, and union leaders — tend to portray it as a tantrum thrown by selfish “preservationists”. And the no-growth advocates may not fully grasp the full dimensions of their stand when they describe it as a reflection of their concern for the environment or the quality of life. In short, the boundaries that both sides perceive not only mask the true magnitude of the controversy, but also conceal the full cast of players and the reasons fueling their commitment. The drive to limit growth and development draws at least equal force from local taxpayers more worried about the costs to them of unbridled development in their own communities than in what it will do to the environment.

## Concern for lifestyles

Those involved in the various growth-no-growth controversies believe that something far more powerful is now giving the effort its basic strength. The growing support from non-environmentalists at all points of the economic spectrum is now being interpreted as the expression of a sort of territorial imperative equal to any identified in the animal kingdom. Residents are increasingly concerned, it seems, with their own lifestyles — longer lines at the supermarket, the threat of double sessions at school, packed swimming pools, even the need for reservations just to sleep under the stars. This quality of life is their environment. And it involves everyone from builder to preservationist, welfare recipient to bank president. Union carpenters who would oppose growth limits because of a concern for employment would now support it to give them room, say, in which to drive their new campers to the great outdoors. A plumber would support a moratorium on growth where it threatened double sessions for his children at school. A county composed essentially of a commuting labor force would impose an outright ban on building because of a limited water supply.

Conservationists know these people still shun the label “environmentalist”, but believe that they are

responding increasingly to similar concerns. While still distrusting one another's motives, they find themselves nonetheless drawn together on this sensitive, unwieldy issue, which cuts across economic, ethnic, and political lines. There is an equal diversity in the tools used to implement slow-growth policies or desires. And the effect is an even more powerful but so far scarcely perceived force applying even more pressure to the movement than its staunchest advocates comprehend.

## Growth of no-growth

A chronology can be traced of this gradual expansion of powers to control growth-related problems. In 1969, when land-use control was something planners discussed and few conservationists were aware of, California's Porter-Cologne Water Quality Act was being drafted by far-sighted persons with a basic grasp of the limits of natural resources. It became law on January 1, 1970. While the public may have been impressed with the act's provisions for a \$6000-a-day fine against polluters, it heard little about the measure's real muscle — the authority to freeze development in any area already violating water-quality standards. Little, that is, until those provisions of the law were enforced in the Monterey Bay Area in February 1970 by the Central Coast Regional Water Quality Control Board. In Monterey, one of the world's famous beaches and certainly the region's prime tourist attraction was closed by public health officers because of pollution. In short order, the Central Coast board slapped a freeze on new sewer connections in several bayside communities while solutions were sought.

## San Francisco case

A month later, the parent state Water Resources Control Board moved against seven Bay Area polluters, accusing the Bay Area board of foot-dragging. Bans on hooking up new sewer customers were ordered against San Francisco, the Contra Costa County Sanitary District, the cities of Belmont, San Carlos, and Redwood City on the Peninsula south of San Francisco, and Milpitas on the east side of the bay. The state's newest oil refinery — then Humble Oil and now called Exxon USA — was also ordered to restrict its waste discharge until it could bring its disposal system into compliance with clean-water standards.

This action, which tied up nearly half a billion dollars of commercial and residential construction in the Bay Area, was what really began to get the message across that the end had come for the region's unlimited growth. Although several of the resulting bans on new sewer connections were later overturned in court appeals, the point had been made. Money from the biggest

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financial institutions dried up overnight because of the threat of reimposition of the bans. Builders delayed major projects. Cities, spurred by the resulting pressure from developers, promised to upgrade sewage treatment immediately.

While equated with pollution prevention, this has since proved to be the first chink in the hitherto impenetrable armor of unlimited growth.

### **The tide changes . . .**

Conservationists began getting a better response to their local campaigns to halt unrestricted growth. Voters in Palo Alto, south of San Francisco, elected a "residentialist" majority to their City Council in April 1970. The "residentialists" favor rights of existing residents and oppose uncontrolled and explosive growth that saddles them with the high cost of providing services to the newcomers. Rather than permit high-density apartments on scenic hillsides, the council commissioned a study that in February 1971 found it would be far cheaper for the city to buy the 6,100 acres for \$30 million over a 30-year period than to permit development there. The subsidy of future city services would, in other words, cost more than the taxes that the broadened tax base would bring in.

Similar findings began turning up in other places and other states, among them:

- A study in Denver in 1972 showed that each new residence there would actually cost existing residents \$21,000 for streets, sewers, water, sidewalks, roads, police and fire, hospitals, schools, and a variety of other community services.
- A study by the Environmental Law Society at Stanford University of the coastal community of Half Moon Bay, south of San Francisco, found that a 1,262-unit subdivision would cost over \$50,000 in yearly subsidies by 1977, skyrocketing to \$400,000 annually by 1982.
- A 1972 study in Kern County by Systems Management Associates concluded that "the county will have to provide the residents of Tejon Ranch with a subsidy of at least \$2 million per year by 1982 and over \$9 million yearly by 2012," to cover necessary capital improvement costs.

Similar studies with similar findings were made in the communities of Thousand Oaks in Ventura County and Santa Rosa in Sonoma County. And that's the kind of "environmental concern" that the great majority of taxpayers apparently relate to best.

A recent survey by the Urban Land Institute shows that in 15 cities or counties in California some move toward growth stabilization has been made. The list isn't made up for flyweights, either. There are small towns like Petaluma, Brentwood, and Jenner-by-the-Sea, of course, but there also are large suburban cities like Ventura, Fremont, Palo Alto, and Palm Springs. The addition of metropolitan hubs like Los Angeles, San Jose, San Diego, and Sacramento only makes the list the more impressive.

### **Building moratoriums**

But there are more dramatic examples of the evolution of this rethinking of the growth ethic, situations where the voters felt that they couldn't wait any longer for leadership from legislators. To take two examples:

- In the Livermore-Amador Valley, residents initiated and passed a building moratorium on April 11,

1972, mostly because air- and water-pollution troubles in their enclosed basin were growing, but also because their environment was becoming overcrowded and bringing with it what they felt was a deterioration in the quality of their lives. (The ban — challenged in court but still in effect — halts the issuance of building permits until adequate water supplies and school and sewage treatment services are available to handle the existing population. Provisions for increased services will have to accompany any future growth.)

- The City of Milpitas, on San Jose's northern border, imposed a total ban on residential building in 1972, because of the mounting gap between tax revenues from new homes and the costs they brought in city services.

### **Southern California lags**

Whether it is the flame of environmental concern or the spark of territorial imperative that fuels the move toward slower growth, it so far has burned more slowly in southern California. Hopes for some constructive action in defusing the growth bomb there are highest in San Diego, where Mayor Pete Wilson has won the confidence of slow-growth advocates for his seeming eagerness now to confront a situation in which growth is balanced against limited resources, the region's "safe holding capacity", and the quality of life desired by the citizens.

(While the term, "safe holding capacity", is seen as a "no-more-than-now" limit by some, it more precisely refers to the number of people a given watershed or air basin can contain without overloading its own logistical and life-support systems. That capacity is being exceeded when it overdrafts existing water supplies, fouls its air with smog, or jams its people so tightly together that it heightens social tensions and diminishes the quality of their life. That is not an uncommon plight of several of the state's metropolitan zones, both north and south.)

### **San Diego**

The San Diego story is an encouraging sign of an awakening to those threats to the quality, if not the very substance, of life. Mayor Wilson was elected on a platform that included strong control of the developers, and he remains a central figure in the debate over that method of trying to improve the city's environmental quality. So far, the action has been a solid mix of citizen initiative and governmental leadership. In July 1972, the City Council adopted a policy that permits "phased growth" in undeveloped areas only after an intensive cost-benefit study to insure that the development will pay its own way in providing all the usual necessary governmental services. City officials say it is still too early to evaluate the success of the policy. In November of the same year, citizens voted to impose a 30-foot height limitation on coastline buildings to halt the spread of skyscraper condominiums that were blocking existing views. The law became effective July 12th.

But all is not yet sweetness and light. The San Diego County Planning Commission, has not reversed its obvious pro-growth stance, although through a perverse twist of the law slow-growth advocates may reap a major windfall. The commission had not adopted the "open-space" element to the General Plan in time to meet a state-imposed deadline of June 30th. The pen-

## The growth of slow-growth: a chronology

**January 1970:** Porter-Cologne Water Quality Act takes effect, banning sewer connections in cities where water-pollution standards are violated.

**April 1970:** Palo Alto voters elect "slow-growth" majority to City Council, which orders study on cost-benefit ratio of new growth. Finding: it would be cheaper, in some cases, for the city to buy land for open space than to permit development and provide additional city services.

**February 1971:** Central Coast Regional Water Quality Control Board, invoking Porter-Cologne Act, bans new sewer connections in several Monterey Bay communities and closes some beaches.

**March 1971:** State Water Resources Control Board bans new sewer connections in San Francisco, six neighboring suburbs, and a major oil refinery for violating waste-discharge requirements.

**November 1971:** Sierra Club and Confederacion de la Raza Unida block construction of Foothill Freeway through Hayward and Union City on east side of San Francisco Bay.

**April 1972:** Voters in Livermore initiate and pass a stop-growth measure until city's air and water-pollution problems and school overcrowding are solved.

**June 1972:** Voters approve Coastal Zone Conservation Act, controlling growth 1,000 yards inland along the state's coastline.

**July 1972:** San Diego voters pass initiative to slow growth and require cost-benefit analysis of proposed construction.

**August 1972:** State Supreme Court upholds lower court ruling in "Friends of Mammoth" case extending provisions of the state's Environmental Quality Act of 1970 to all private development "with significant impact on the environment."

**July 1972:** U.S. District Court Judge grants injunction halting construction of Century Freeway in Los Angeles, pending thorough environmental impact and social relocation studies. Opposition builds to proposed Beverly Hills Freeway.

**October 1972:** U.S. District Court judge grants plaintiff's right to collect attorney's costs and expert witness fees from the government, thus removing financial obstacle to challenging state projects.

**February 1973:** State Water Resources Control Board limits grants to expand sewage-treatment capacity to those regions already experiencing air pollution.

**March 1973:** Opposition to slow-growth emerges with formation of Pacific Legal Foundation to fight environmental court challenges and creation of management-labor groups in the building industry to counter "stop-growth" activities.

**April 1973:** San Jose voters approve initiative to freeze growth until the school district can eliminate overcrowding and double sessions.

**June 1973:** Marin County Water Conservation District bans new connections until water-supply problems are solved. U.S. Environmental Protection Agency prohibits development that would degrade air quality anywhere. State Air Resources Board ordered to include control of such pollution sources as major subdivisions, convention centers, sports arenas, and large office buildings in its plan to comply with 1970 federal Clean Air Act. Petaluma residents vote to freeze new growth, pending further analysis of cost-benefit ratios and environmental impact of proposed developments.

ality for violation is a total freeze on issuing building permits. (There are, however, two bills before the Legislature to extend the deadline — AB 1864 (Kapiloff) and SB 594 (Marler), though AB 1864 contains a not-so-subtle hooker: it would allow amendments of county general plans to be made only twice a year and would prohibit the commission from hearing requests for both zone changes and plan amendments at the same time. The effect would be to halt spot zoning and piecemeal demolition of a general plan.)

### Los Angeles

In Los Angeles, movement workers — a mixture of environmentalists, Zero-Population Growth advocates, and members of previously uncoordinated home-owner associations — anxiously await the seating of Mayor Tom Bradley. While Bradley has made no firm public commitments concerning the city's growth, many of his statements before and since his election indicate more concern for the questions of environment lifestyle than did Mayor Sam Yorty. But the closest thing Los Angeles has come to setting policy in limiting or balancing growth is to adopt a projection of a population of 7.7 million in the county by 1990, a modest increase from its current 7 million. While that actual growth performance would mark a dramatic turn-around for the state's most heavily populated area, no actual commitment has yet been made to meet that level.

### Santa Barbara, San Jose, Marin . . .

But other examples of the slow-growth phenomenon are cropping up with increasing frequency. Among them:

- In *Santa Barbara*, the recent successful fight to block a major suburban ranch subdivision by Standard Oil of California interests has spawned a greater awareness of the growth problems and,

more importantly, confidence in implementing effective solutions.

- In *San Jose*, often maligned by planning experts as "the Los Angeles of the North" for its urban sprawl, voters passed their own building moratorium after city and school establishments failed to take decisive action on growth. There, the move was primarily one against overcrowding in schools, though a modest conservation stripe was evident in the campaign. In May, city voters unseated two incumbents on the San Jose City Council, replacing them with slow-growth advocates and giving that element a 5-2 majority on the council. Conservation, open space, and baylands plans have already been approved, each placing high priorities on balancing growth in the future.

- In *Marin County*, where voters had earlier passed an initiative to curtail growth, a water-conservation district implemented a total ban in June on new water connections because it had exhausted its water supply.

These decisions and actions have not merely been the result of crafty campaigning by environmentalists. In San Mateo County, a county-sponsored survey of its population returned some surprising results for advocates of unrestrained growth. Of those surveyed, 83 percent favored no further population increase in the county. Moreover, 42 percent felt that, because of overcrowding, the county was becoming a worse place to live, despite its scenic combination of sea and bay mountains and forests.

### Coastline initiative

The next tool, and one of the most persuasive, against uncontrolled growth was passage by state voters last November of the Coastal Zone Preservation

Act. While it concerns itself with only a comparatively narrow strip of the state, the land involved happens to be the most sought-after acreage on the American continent. Nowhere has there been more pressure to squeeze more and more high-density development onto such a confined space.

Although it does not automatically ban development in the coastal fringe, the act has certainly restricted it in its first several months of operation. On June 20th, the state Coastal Zone Conservation Commission took its strongest action to control population expansion. By a 12-0 vote, it reduced the ultimate service capacity of the Aliso Water Management Agency from the proposed 220,000 users to 174,000 users in its district, which includes Laguna Beach, El Toro, and the Irvine Ranch and surrounding communities. (The project had earlier been scaled down from 368,000 users by Orange County and the Southern California Association of Governments.) Although the commission has jurisdiction over only 1,000 yards inland from the coast, it could act because the sewer line serving the areas had to cross the coastal fringe and threatened to damage coastal waters. The impact of its decision will be felt 20 miles inland.

The historic "Friends of Mammoth" decision last fall also ranks as a significant braking action against rapid growth. When the state Supreme Court ordered an environmental impact report before a huge mountainside ski resort complex could proceed at Mammoth Lakes, it extended the existing state law to cover all significant private development as well as the governmental projects already subject to it. Within weeks, development of all kinds throughout the state ground to a halt as legal interpretations were developed to determine just how inclusive the precedent was. The result was to slow growth in many areas, even if only during a period of impact-report preparation and submission.

#### **State and federal controls**

The latest in the string of unconnected forces to exert pressure on the "growth lobby" are environmental controls imposed by state and federal governments. The state Water Resources Control Board, which had already made wide use of its authority to ban sewer hookups under the 1970 Porter-Cologne Act, has now gone further: in the name of clean water, it will not permit greater pollution of the state's air. It has sharply limited the 87½ percent of state and federal grants to upgrade local sewage-treatment systems to those systems in major air basins where clean-air standards are already being violated. In those basins, furthermore, the board will approve improvements only after being assured that the population will remain relatively static for 10 years. The new formula permits a fertility-rate growth of 2.11 percent — bare replacement — and no gain from migration.

In the past, the Water Resources Control Board had funded expansion plans based on 20-year population projections by individual cities. It was to each city's benefit, then, to project larger systems to qualify for larger grants. Now, however, that conflict of interest has been removed.

Growth curves now are tied to those used by the state Department of Finance. These permit the bare replacement birth rate in critical smog zones like the Los Angeles basin, in Riverside, San Bernardino, Orange, and San Diego counties in the south, and in San Mateo, Alameda, and Santa Clara counties in the north. (The

critical air basins are those in which clean-air standards set by both the federal and state governments are already being exceeded on a more than sporadic basis.) The precise technical decision will be further developed as the state water board begins to implement its policy when passing on actual grant applications. For areas with less-than-critical air pollution, the growth curve permitted will be more liberal, though still a far cry from the unlimited and unchallenged 20-year projections of the past. Now, the grants will be approved to keep the growth — and resulting sewage-flow increase — within a 10-year population growth rate of 4.5 percent increase in births and another 150,000 persons through migration.

#### **Gangplank theory**

Some developers in the state — including the Associated Homebuilders of the Greater East Bay — have charged that the ruling constitutes a ban on all new building, while forcing people to move out of critical air basins so sewage treatment plants can qualify for funding. "It's the gangplank theory of suburbia at work," said William Leonard, Executive Director of the East Bay builders group. "Once you're on board, you pull up the gangplank."

"This policy by no means forces communities to cut off growth," countered the state Water Resources Control Board's Vice-Chairman, Ronald Robie. "We're just saying that we can't use federal and state money to induce growth that pollutes the environment of already overloaded basins. The community can build as big a plant as it wants and make as many connections to it as it pleases, but it will have to pay those extra costs itself — and, of course, make sure that our regulations aren't exceeded in the process."

The federal Environmental Protection Agency and the state Air Resources Board have criticized the Water Resources Control Board, Robie said, out of concern that its grants were actually encouraging unlimited growth and thus adding to air-pollution problems. "We must abide by federal and state environmental impact rules, too," he said. "We have no more right to cause smog than anyone else. Water and air-pollution control has to be closely coordinated or they just work at cross purposes."

#### **'Clean-up business'**

Things might get even tougher next year. The board's executive officer, William Dendy, says that he will ask the board to award grants only to those communities whose treatment systems are meeting regulations. The others wouldn't get a dime until their waste discharges came into compliance. "That should make it clear that we are in the clean-up business, not in the land-use control or population distribution," Dendy recently told a convention of the California Pollution Control Association in San Diego.

The other agency determination — the last on the chronological list of decisions affecting growth rates in the state — is that of granting land-use controls to agencies regulating air pollution under the Clean Air Act of 1970. By January 1st, regional arms of the Air Resources Board will likely have to start assessing the air-pollution impact of major complex stationary sources before permits can be issued for their construction. These include, by latest interpretation, major new regional shopping centers, sports and convention com-

## 'If it can happen in San Jose . . .'

When voters take action to halt growth in one of the three fastest growing areas in the country, the movement has surely gone beyond the experimental stage. That's what happened in San Jose April 10th, when citizens approved an initiative ordinance creating a partial, but powerful, two-year freeze on new residential rezoning. Fought almost solely on the issue of overcrowding in schools, the measure, for the next two years, prohibits new growth that will reduce the existing average space per pupil on a district-wide basis. Beyond that, it prevents, indefinitely, new growth that would exceed space requirements at any one school beyond present limits. The only way to overcome either obstacle is for the builders to provide the schoolrooms themselves, without cost to the district.

Although the action has been cheered by many environmentalists, who helped rally support that produced a narrow margin of victory, it was conceived, launched, and controlled by ordinary citizens opposed to the idea of having their own rights and elbow room mandated by a growth-oriented establishment. Primarily, the thrust was delivered by parents angered by half-day double sessions for their school children. However, other elements surfaced during the relatively low-keyed campaign. Some supporters said they were just tired of having to stand in line and be jostled by crowds everywhere — at the supermarket, in the swimming pool, at theaters, and in

shops. The city's polluted air, its over-drafted groundwater basin, and its water pollution impact on San Francisco Bay drew some voter strength as conservation groups rallied their members to the polls. Although the 53 per cent majority in an election that attracted only 22 per cent of the city's 198,252 registered voters can hardly be considered a major mandate, it does provide interesting evidence that tradesmen, too, are concerned about the quality of their life in suburbia.

It is estimated that 8,000 carpenters alone are employed in San Jose, taking home an annual payroll exceeding \$50 million. How many plumbers, electricians, bricklayers and other allied workers there are is not precisely known, but certainly enough to push the aggregate well over the 20,091 votes that opposed the slow-growth ballot issue — even without the vote of their spouses. Many of them either voted to slow growth or had such mixed feelings that they couldn't oppose it.

In any case, when slow-growth votes succeed in Petaluma, it's interesting, but when it happens in the heartland of rapid expansion — a city whose limits have spread from 7.5 square miles to 142 square miles and whose population has more than doubled in a decade — it is much more significant. As a conservationist living in Los Angeles remarked: "Wow! If it can happen in San Jose, it can happen anywhere — even here."

plexes, office buildings, transportation systems and the corridors they will travel, and subdivisions.

### Freeway revolt

While predating most of these slow-growth tools, the chronology would not be complete without mentioning the precursor of unrestricted growth — the freeway revolt that started in San Francisco a decade ago and has since cropped up across the nation.

On May 18, 1964, the San Francisco Board of Supervisors rejected a state Division of Highways plan to route an eight-lane freeway through the Panhandle of Golden Gate Park, and later that year rejected a modified plan. The "revolt" spread. In June 1964, citizen opposition to more and bigger highways surfaced in the Tahoe basin and a coalition was formed to block another proposed state freeway, a four-lane roadway skirting the west shore of Lake Tahoe, a project the state finally abandoned last year.

Other cases started cropping up all over the state, soon giving rise to formation of an opposition group to "save" the freeways, Californians for Modern Highways, Inc. That group was formed by the publisher of the *Santa Monica Outlook*, Robert E. McClure, a former member of the California Highway Commission, to "fight the propaganda of a small but vociferous, anti-automobile, anti-freeway group that is threatening to stop construction of vitally needed thoroughfares." Despite this group's attempted counterattack, by 1972 the movement had put a major crimp in California's plans for a massive 12,500 freeway network, placing it \$13.8 billion and 6,000 miles behind schedule.

In the Los Angeles area, already webbed by 23 completed or partially completed freeways, citizen opposition ensnared plans to enlarge the \$3 billion, 800-mile system. The proposed 10-lane Century Freeway

running east from Los Angeles International Airport through 17 miles of middle-income suburbs was stopped when citizens refused to sell their property to the state. The City of Hawthorne put up \$100,000 to fight the freeway, then refused to sign street-closure agreements with the state, effectively stopping construction work.

In July 1972, as a result of a suit filed in February by the Center for Law in the Public Interest, U.S. District Court Judge Harry Pregerson ruled that all work on the freeway must stop until state and federal environmental impact reports were prepared.

And the examples of revolt multiply — against a proposed \$315 million Beverly Hills Freeway still on the books, for example, and against a federal plan — since withdrawn — to build the Minarets Trans-Sierra Highway, again near Mammoth Lakes.

But perhaps the most important and precedent-setting decision of all the examples of freeway revolt came in the San Francisco Bay Area, where the Sierra Club and the Confederation de La Raza Unida united to block the proposed extension of the Foothill Freeway through Hayward and Union City to connect Oakland and San Jose with a second freeway. U.S. District Court Judge Robert F. Peckham granted an injunction against the project in November 1971, on grounds of both environmental impact and the relocation problems of residents in the highway's path.

The unique coalition between the Sierra Club, sometimes accused of being elitist, and La Raza, representing the Mexican-American poor in Union City, won an even more stunning and vital victory last October 19th. Judge Peckham, in what legal experts call a very significant opinion with national ramifications, ruled that the impoverished Mexican-Americans and the environmentalists could collect attorney and expert-witness

fees from the state, and ordered the plaintiff's lawyer, Anthony Kline, to negotiate his fee with the state Division of Highways. (He set his fee at \$75,000 to cover the costs of the state's expected appeal.)

If upheld, Peckham's ruling would make it much easier for more people — especially poor people — to fight the expensive, lengthy battles against freeways. Explaining the reasoning behind his decision, the judge said: "Exhortation towards citizen participation can sound somewhat hollow against the background of economic realities of vigorous litigation. To force the private litigants to bear their own costs would be tantamount to penalty."

#### **A counter force**

This chronology would be both incomplete and disarmingly deceptive, however, if it omitted the evolution of a counter force. The "growth lobby" is regrouping. Lately, it has either directly sponsored or indirectly encouraged formation of several groups to ward off slow-growth efforts.

In San Diego, for example, management and labor have joined in an unlikely alliance to form SEED — Stability, Employment, Environment and Development. Membership includes the Teamsters, the savings and loan industry, real estate brokers, bankers, and the construction industry. SEED's stated purpose is to oppose those who are "well organized, vocal, and well versed in securing publicity to promote their philosophies of no growth, stop growth, and don't touch or disturb."

A sister group, CEED (for Council on Environment, Employment, Economy and Development), has started in Orange County to wage, what its chairman, Gilbert W. Ferguson, calls "a battle which only can be won by a massive offense which will convince the average citizen that his livelihood and way of life are at stake."

A larger statewide business lobby has organized in Sacramento under the title of Pacific Legal Foundation (see *California Journal*, April 1973, p. 135). Created after a favorable task force study by the California Chamber of Commerce, the organization expects to raise at least \$130,000 this year to oppose groups that have used the courts to change public policy affecting private business, industrial, and farming interests. Its leaders acknowledge that they will spend much of their time opposing environmental law suits that threaten to halt construction projects, including subdivisions.

The response from business and industry hasn't been all defensive or negative, however. There are encouraging signs that past polarization is giving way to compromise and a deeper understanding of common goals and needs of society. Although many developers screamed loud and long against the extensions of the environmental impact requirements of the State Environmental Quality Act of 1970 by the Friends of Mammoth decision, several banking and chamber of commerce elements saw the long-range good in more precision planning, and supported the program.

There has also been a gradual weakening of business opposition to breaking up the federal Highway Trust Fund and state Gas Tax Fund to support mass-transit projects. Even such pillars of the highway lobby as Mobil Oil, ARCO, Henry Ford, and the Teamsters have in the past 18 months supported some opening of these hitherto sacrosanct treasure chests.

At the Pacific Coast Builders Conference in San

## **It was said...**

He mouthed off a bit, got a little vulgar, and I popped him.

... by Senator H. L. Richardson, explaining why he hit fellow Republican Senator Milton Marks June 22nd after taking issue with a parliamentary maneuver by Marks.

I guess my mistake was in going over to his desk and trying to reason with him.

... by Senator Milton Marks, reflecting upon the same incident.

We are still not satisfied with the answers we have been receiving from the industry on the reasons for the current crisis, and we intend to dig deeper.

... by Ken Meade, Chairman of the Assembly Transportation Committee, in proposing a state agency be established to allocate gasoline and regulate its price.

Housing and jobs — that is the real, fundamental problem, one that schools can't solve. Mixing the races without regard to any other factors doesn't accomplish anything. As we improve the quality in all schools, the race problem fades. The problem that arouses parents is when their children are placed at a disadvantage.

... by Wilson Riles, State Superintendent of Public Instruction, in an interview with Copley News Service.

I'm a militant moderate. I'm either militantly moderate or moderately militant.

... by Maureen Reagan, the Governor's daughter and a radio talk show hostess, in an interview with Associated Press.

It is not a special thing in that I'm unhappy or something like that or want to make a big splash. I'm just an old sailor that is fading away.

... by Dr. A. J. Haagen-Smit, Chairman of the state Air Resources Control Board, in announcing last month that he expects to resign soon (see *People in the News*).

Francisco June 14th, Governor Tom McCall of Oregon, an ardent advocate of slow-growth, told the developers: "There is no denying that harsh conflicts exist, and the arguments only now are withdrawing from the extreme limits of growth versus no-growth. But we've got to have growth — limited, controlled and circumspect, but growth nonetheless . . . . The achievable balance between unparalleled growth and a pristine environment has not yet been found, but more and more people are asking that it be achieved."

#### **Middle ground**

While this call for reason and understanding was warmly received by some, there remain many quarters in the building industry and allied trades that are suspicious and ardently opposed to slow-growth. Similarly, while most of the balanced-growth supporters would agree that there is little chance for equilibrium without opposing forces, they are alarmed about what they see as an imminent flood of vested-interest propaganda that will both confuse the issue and divide voters.

Indeed, California's battle over growth is only about to be joined. 🏠

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## Keeping 'Big Brother' at Bay

# State's Computer Plan Raises Privacy Issue

By BRUCE KEPPEL

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*The computer is without question a marvelous administrative tool, but its use on the scale now contemplated in California raises a number of unanswered questions — not the least being the safeguarding of an individual's right to privacy. In the article below, we explore the privacy issue, and, in a second article, relate how the state arrived at its present plan to consolidate its electronic data-processing equipment in five big computing centers.*

Pick a name, any name, from your local telephone directory. How much information could you gather about the person behind the name?

That question occurred to a reporter back east one day in 1970 and, in pursuit of an answer, he compiled an impressive dossier: age, weight, height, health, Social Security status, employment record, marital status, children's school records, military service, home ownership and value — on and on the data rolled. By the reporter's account, the amount and detail of the information about a person available in one place or another are impressive, but it took some persistence and more effort to track down the various files. So no one would set out on such a laborious quest without good reason — an investigator, perhaps, with a case to make or break. And the fact of the difficulty involved has, so far, been the individual citizen's chief defense against such invasions of privacy.

The computer adds a new dimension to the problem, with its ability to draw together data, each element of which is harmless but which can add up to a whole greater than the sum of the parts. And California's state government, in the words of the Legislative Analyst, is embarked upon "the most comprehensive and ambitious" electronic data-processing program undertaken by any state or local government. Within the next year or so, the state's electronic data-processing equipment will have been consolidated in five big EDP centers (see box), two of which are now in place, with the remaining three moving rapidly toward operational status. Though the Legislature has already acted to block any electronic linking up of the computer files maintained at each center, the computer's challenge to privacy is more complicated than that.

### Efficiency is the goal

The arguments for consolidation of EDP equipment have been made for several years, at least, though the state got into the computer business in 1956. (See *California Journal*, August 1970, p. 220, for an account of EDP development leading to plans for consolidation.) Basically, these arguments relate to increased efficiency and economy of operation (though it has proved diffi-

cult in the quickly evolving world of computer technology to support the economy argument with dollar-and-cents figures). In any case, the Legislature finally accepted the concept of consolidation last year with passage of SB 1503 (Teale), and the Department of Finance expects to award a contract by November for the main computer at the biggest of the consolidated centers, the Stephen Teale Center (named for the author of SB 1503). The Teale center, which will be housed in the Department of Motor Vehicles, will serve 33 state customers who now receive EDP services from 18 state computers located in 11 different places.

Since last summer, however, plans for that center have been clouded in a controversy centering on the award of contracts for computer hardware — first for a large IBM computer in an interim data center located in the present Department of Transportation, which was acquired without competitive bidding, and second for the main computer of the Teale center itself (see following article). That controversy, which boils down whether other computer manufacturers are getting a fair crack at the state's main EDP business in a field heavily dominated by IBM, has obscured the problem that hinges on the safeguarding of individual privacy while assuring the state's use of information it is entitled to collect.

### Early warnings

This is not to say that no thought has been given to the matter of privacy. In 1967, the Legislative Analyst investigated the state's proliferating EDP inventory and urged the Legislature to, among other things, set guidelines "to protect the confidential status of certain personal data and the security of the stored information." In 1969, the Assembly created a Statewide Information Policy Committee, under the chairmanship of Assemblyman William T. Bagley. It explored both the status of the state's open-records laws and the question of computers and privacy. The committee's report, published in March 1970, predicted that the question of confidentiality would likely be decided within this decade, and concluded:

As computer system capacity increases and as data-based files are linked together, the problem of individual dossiers, bulk sales of personal data, and erroneous computerized records will be more acute. The proper state and intergovernmental agencies, including the Legislature, must begin now to prepare for these problems by making the difficult policy decisions and planning for the technical accommodations that will be needed. These items should be budgeted and be considered an integral part of the future development of EDP in Califor-

nia. Neither issues which divide various levels and departments of government, nor the high cost of computer procurement should be allowed to divert the attention of California government from the issue of privacy.

This legislative report listed half a dozen recommendations. These included proposed requirements that all state agencies file statements, updated every six months, listing the personal data maintained in their computer systems, and that all persons be informed of the information collected on them and be given an opportunity to review and correct it. The report also suggested that the Penal Code penalties covering wire-tapping be broadened to cover electronic intrusion into computer systems and other computer-related crimes (which still are not covered by specific sanctions and, according to one computer expert's testimony, goes undetected "85 percent of the time"). And the committee further recommended in 1970 that bulk sales of "identifiable personal data" — such as names and addresses — not be allowed by state agencies, a practice that has since been modified but not abandoned (notably by the Department of Motor Vehicles, which continues to sell at near cost its computer tapes of vehicle owners, whose names are of value to the direct-mail industry).

#### Right to privacy

No legislation embodying any of the 1970 report's findings has been passed (an attempt in 1971 failed). As a barometer of public concern, however, it is interesting to note the passage last November of Proposition 11, which made the "right to privacy" an inalienable right guaranteed by the California Constitution. According to Assemblyman Ken Cory, the amendment's principal author, the proposition's need stemmed from the absence of effective restraints on the information-gathering activities of government and business. (See *California Journal*, October 1972, p. 304, for an analysis of Proposition 11.)

The controversy over the awarding of the interim EDP center computer contract to IBM and the edge the award reportedly gave the company in the bidding for the Teale center did, however, stir renewed legislative interest in EDP consolidation itself. In the course of hearings on the 1973-74 Budget just enacted, the Assembly Ways and Means Committee sharply criticized the administration's bidding procedures, but did not probe the privacy issue. These hearings did, however, lead to a new series of hearings — this time undertaken by the Assembly Committee on Efficiency and Cost Control — and these, now under way, are at last focusing on the related questions of privacy and security.

#### Defining the problem

In the three hearings held since March 17th, the privacy issue relating to computers emerges as centering on two fundamental points: determining what data

#### THE IDEA OF CONSOLIDATION

"To make available to all state users that portion of a large-scale central computing facility which is required to effectively process data necessary in support of that organization and its programs. The largest, most efficient computers are thus made available to any user for a price which is consistent with his need and usage."

—Governor's Budget, 1973-74

#### THE FIVE EDP CENTERS\*

- *State College and University Center*. Fully operational; existing equipment is now undergoing re-evaluation, but will probably be adequate until 1976.
- *Law Enforcement Data Center*. Fully operational, equipment estimated to be adequate until 1976.
- *Stephen P. Teale Center*. Bids are expected to be submitted by August, a contract awarded October 30th, equipment installed and conversion begun in 1974, with completion by 1975.
- *Health and Welfare Data Center*. Public Health and Mental Hygiene computer operations were consolidated last month and operations transferred to the center; Departments of Health and Social Welfare begin consolidation in August; the computer at the center, located in the Department of Human Resources Development, undergoes expansion; all department computer operations are to be converted and consolidated in the center by April 1974.
- *Revenue Data Center*. The Franchise Tax Board and Board of Equalization are developing a consolidation plan, with a computer contract expected to go out to bid late this year, a contract awarded next March, conversion completed in 1974.

\* The last four centers were those authorized by SB 1503.

can legitimately be collected, and the uses to which the data can be put. According to an administration spokesman, Kent Gould, Chief of Electronic Data Processing Control and Development, the question is as broad in scope as the terse phrase of Justice Louis Brandeis — "the right to be left alone." While the Legislature, in passing SB 1503, did outline some guidance and assign administrative responsibility in this general area, Gould noted, "the Legislature may very well need to specify its desired level of security/privacy to be associated with certain data, recognizing that, in the absence of such specification, the administration is free to lay its own requirements."

#### Two cases

While Gould, not surprisingly, defended in advance the sort of requirements the state might lay upon its own actions, there have already been at least two cases of initiatives taken by the Reagan administration, in the absence of any legislative policy, that have raised the privacy question in relation to records maintained by state agencies. Last August, for example, the 3rd District Court of Appeal upheld the administration's right to link two sets of state files — earnings and welfare cases information — in an effort to detect welfare fraud by making a cross reference of data collected for different reasons. Significant to the computer-privacy issue is the court's explanation for its ruling:

In the absence of statutory or regulatory regulation, we find in the present case no impediment to the power of executive departments of state government to share information which they have properly obtained.

Then last month, as the Assembly Committee on Efficiency and Cost Control held two hearings on the privacy-security question, the *Los Angeles Times* discovered that Richard Peterson, Chief of Operations Security in the state Department of Welfare, is heading a national

organization that seeks to set up a nationwide computer system. Its aim also is to detect welfare fraud. "Of course," Peterson was quoted as saying, "there is some opposition [to what some consider] a Big Brother type of concept, and I'm sure this will be voiced. . . ." He said the association, which has no direct affiliation with any government agency, proposes to compile a national index of welfare recipients by linking computers in each state to the central computer files maintained by the federal Department of Health, Education, and Welfare in Washington, D.C. Peterson conceded that the "benign use of computerization" could easily be applied to various other classes of people, but considered that risk to be justified because "the stronger feedback we get is that it's about time welfare started cleaning its own house."

In any case, Gould told the committee that, in his opinion, consolidation of the state's present EDP equipment should not increase the threat to privacy but, on the contrary, render the problem more manageable. "Let me suggest," he said, "that in one center, Teale, which will replace 11, we have for the first time a situation really capable of being tackled, monitored, and controlled. The previous 11 installations had 18 computers, all of which had different compilers, different standards, different controls, and different procedures for data security and privacy, and all had different criteria for physical security." To the concern that "because you have all the data at one center and someone has access to that center then they automatically have access to all the data," he replied that "in today's technological environment this cannot happen."

#### **Computer-related crime**

Nonetheless, what has come to be called "computer-related crime" has happened and, according to Honeywell executive Web Castor, is going largely undetected. Indeed, he told Committee Chairman Mike Cullen that "85 percent of such violations may now be going undetected."

On June 14th, Cullen's committee heard from Donn B. Parker, Senior Information Processing Specialist for Stanford Research Institute and a specialist in "computer abuse". "I find that the greatest threat through the computer systems," Parker testified, "comes from the EDP people that are associated with computer systems, because these are the people that have the knowledge, the skills, and the access in order to perpetrate these acts. . . ." Parker's recommendation for dealing with this situation was for the state to develop an "EDP audit" capability, which he described as a new method developed within only the last few years, mostly for use within banks. It would automatically record who took what data from the computer at what time.

But Parker had a more direct technique to offer as well — simply building in a warning within the EDP equipment, something that, at a certain point or in certain situations, would say: "No trespassing. Do not enter. Do not go beyond this point." In his analysis of a number of incidents of computer-related crime, he explained, many of them involved only slight variations or extensions of normally acceptable techniques. In the absence of any computer ethic to guide technical personnel, he said, such a warning system could head off much abuse.

"Government and business has never been more vulnerable than they are right now," Parker warned,

but, he added on a more optimistic note: "As we learn how to use computer systems the way we think they can be used . . . to protect assets and confidential information, we will be able to do far more in the protection of this vital information than we ever were in the previous manual systems."

#### **Safeguard technology**

A number of electronic techniques now exist for maintaining the security of the computer files, the committee learned. Honeywell's Castor described a number of them:

- A password program "as simple as an entry code name which can be checked and verified against the computer's files, or as complicated as a long series of questions which only an authorized user can answer."
- Locks on the terminal requiring a certain sequence to be punched on the keyboard, or insertion of a special card, to open them.
- Voice prints, lip prints, skin and breath chemistry, fingerprint scanners, and picture phones — all in the development stage.
- The audit monitor Parker mentioned which "can note abnormal patterns or frequencies of any given file being accessed, and . . . record attempts to access a file which were foiled by other security systems."

A major security problem, according to Castor, is that "most manufacturers, in their haste to get an operating system running on time and efficiently, take real shortcuts which in turn get frozen into the system. It is very expensive to undo for the manufacturer, and it can result in major inefficiencies for the user. The problem is that while you plug all the known holes, the unknown ones keep cropping up. And you never really know how many more will crop up, or when." His recommended solution was for the state to require "the strict incorporation of security-design features at the onset" — to assure that it is designed with security in mind "from the ground up."

Among the legal requirements suggested so far is the certification and licensing of EDP personnel. The state, however, has yet to take steps to have the State Personnel Board step up its classifications and requirements. Gould told Assemblyman Cullen, and the "certification" plan he outlined to the committee appeared to be, at best, sketchy.

But the detection and discouragement of computer-related crimes does not necessarily solve the privacy question already raised by the attempts to use computers to detect computer fraud. George J. Turner, Director of Information Systems for the University of California, which runs its own computer network, told the committee that the computer is "only a small piece" of the question of protecting the privacy of information about individuals. Turner suggested the following questions relating to record-keeping as guides in formulating an EDP policy consistent with the new constitutional right to privacy:

- What is collected?
- Is it minimized consistent with the kinds of information necessary?
- Is it disassociated from the individual wherever possible?
- How is data used? ("Whenever we gather data," Turner explained, "we're gathering it in a context

where there's an implied consent of the person providing it to us to use it. The consent sometimes is very fuzzy ....")

Turner added that it is important, too, that someone in the bureaucracy be made responsible for the data collected — someone with whom a complaint can effectively be lodged. And, finally, he said, there should be an efficient program for destroying records once they have served the purpose for which they were compiled.

### Two directions

None of the witnesses that have appeared before Cullen's committee have yet sought to play down the seriousness of the situation facing the state and its residents. Honeywell's Castor put it clearly, if couched in terms of a challenge. "There are," he said, "literally two directions computerized data banks can take us:

- One leads toward a radical realignment of knowledge and power, where the controlling interests have little or no regard for human values. Its end will be a goldfish-bowl society in which any indi-

vidual's activities may be recorded and scrutinized.

- The other path enlists computers in expanding knowledge for the benefit of all, using the power of computers to help cope with the complexities of modern life."

In announcing his committee's series of hearings last March, Cullen said the first phase now completed would outline the scope of the problem. The second phase, which is yet to come, is to "delve into the more specific and detailed operations of the computer-consolidation program as it pertains to the privacy and security issues." Meanwhile, the program continues to consolidate the state's vast EDP network into five central computers feeding clients who can draw from their data banks through terminals located in their offices. And so far, like the person whose name was drawn out of a Long Island telephone book by an enterprising reporter in 1970, no one knows the extent of the state's knowledge — accurate or inaccurate — of them. Even the state.

## Once EDP Is Consolidated, Then What?

Passage of Senate Bill 1503 at the close of the 1972 legislative session marked the end of a period of indecision over what to do about the state's proliferating inventory of electronic data-processing equipment. SB 1503 did so by committing California to a program of EDP consolidation. That act of itself did not, however, dispel the controversy that is now associated with the continuing computerization of the state's records. Nevertheless, it did establish a benchmark in an executive-branch wasteland (see *California Journal*, August 1970). And work is now proceeding on establishing three consolidated data-processing centers, which will join two others already functioning.

The state's computer planning was shifted in the Budget Act of 1971 from the Office of Management Services, which was abolished, to a new division of the Department of Finance called Electronic Data Processing Control and Development. On April 27, 1972, the division produced a plan to consolidate state EDP equipment. It drew together several elements that earlier, abortive administration plans had contained. (Aside from calling for consolidating the state's computer hardware in a few large computing centers, this plan also includes a state teleprocessing network, integrated data bases, imposition of common rates, and uniformity of computer language and operation.)

A few days later, on May 5th, the Department of Finance quietly signed a \$7 million contract with IBM to provide three of its big 370/165 computers. One was to be installed temporarily in the Department of Public Works, where it would function as an "Interim Data Center" until the other two machines were installed in the future site of the Business and Services Consolidated Data Center.

The Department of Finance justified its noncompetitive approach — no other computer manufacturers were invited to try for the contract — on the ground that the project amounted to leasing an upgraded version of existing equipment, which is permissible without calling for bids. This explanation apparently satis-

fied the Legislature, and in June work began on the interim center.

### Legislature stirs

When the magnitude of the project finally dawned on the Legislature, it responded by writing specific controls into the Budget Act of 1972. Among other things, it spelled out that any contracts for EDP equipment exceeding \$10,000 must be bid competitively. The state also had to abridge its contract with IBM to limit it to the one large computer already being installed. The Legislature did appropriate some money for the consolidated centers, but it stipulated that before it could be spent specific enabling legislation would have to be passed. (That was to be SB 1503.)

The Department of Finance's subsequent first attempt at competitive bidding also failed to satisfy the Legislature. The voluminous "request for proposal" that it provided to potentially interested computer manufacturers drew only two bidders — IBM and Univac — and the department eliminated Univac for failing to meet specifications. The Legislature was ready this time, however, with two sharply critical reports — one by the Legislative Analyst, the other by the Auditor General — and the Governor's 1973-74 Budget before it. Consequently, on March 14th, Finance Director Verne Orr appeared before the Assembly Ways and Means Committee to announce that IBM's bid had also been rejected and that the entire bidding operation would be begun again — this time with extensively rewritten specifications to be called an "invitation for bid" rather than a "request for proposal", apparently to stress the competitive nature of the award.

### A new believer

That setback apparently converted the Department of Finance's EDP planners to the wisdom of the competitive approach. Looking back on it last month, Kent Gould, Director of the department's Division of EDP Operation and Development, told an Assembly committee: "I was, frankly, somewhat aghast when I first

## State has a poor record for developing workable information systems

The State of California, according to a report prepared by the Legislative Analyst's EDP expert, has a less-than-brilliant record in developing large-scale information systems in the various state program areas.

"A primary function of the proposed consolidated data centers should be to provide the computer capability required to operate information systems," analyst William Behnk concluded in *Electronic Data Processing in California*. "Although the consolidation of hardware will provide this capability at a reduced cost, of what benefit will an efficient computer system be if the state continues to develop information systems which prove to be of limited value, or are not worthy of implementation after costly systems design and programming are completed?"

At fault, the report notes, are a tendency to ignore existing systems in preference for designing entirely new systems and an inability by the state to assure adequate performance by the private consultants hired by the various departments to develop information systems. Though an evaluation index is provided for in the State Administrative Manual, the analyst found no negative evaluations. "This is grossly inconsistent with the facts," the report observes. "The state has been burdened with numerous EDP systems which, because of inadequate consultant performance (among other reasons), were deficient, too costly, or simply would not work."

To illustrate the point, the report cites the following information systems from 1967 to 1972, their cost, and their utility to the state:

| Name of System                                               | Costs to Date | Department                              | Outcome                                                                         |
|--------------------------------------------------------------|---------------|-----------------------------------------|---------------------------------------------------------------------------------|
| Statewide Federated Information System                       | \$ 271,000    | General Services                        | Not implemented.                                                                |
| California Regional Land Use Information System (CRLUIS)     | 330,000       | Office of Planning                      | Not implemented.                                                                |
| Correctional Decisions Information Project (CDIP)            | 250,000       | Youth Authority, Corrections            | Not implemented.                                                                |
| Various Welfare Information Systems                          | 280,000       | Social Welfare                          | No acceptable system developed.                                                 |
| Automated Personnel Transaction Data Communications (APTDAC) | 40,000        | Personnel Board                         | Not implemented.                                                                |
| Fiscal/Personnel Management Information System (FPMIS)       | 107,000       | Task force of fiscal-personnel agencies | Not implemented.                                                                |
| Automated Teacher Credential System                          | 500,000       | Education                               | Implemented, then discontinued.                                                 |
| California Education Information Management System (CEIMS)   | 527,000       | Education                               | Not implemented.                                                                |
| California Education Information System (CEIS)               | 1,890,000     | Education                               | After many delays, being tested for possible implementation.                    |
| Medi-Cal Management System                                   | 4,600,000     | Health Care Services                    | In prototype operation; final implementation not yet decided.                   |
| Budget Data System                                           | 500,000       | Finance                                 | Possible major changes in concept after design and programming complete.        |
| State Hospital Cost Reporting System                         | 450,000       | Mental Hygiene                          | Implemented with significant cost overruns; operational problems apparent.      |
| Criminal Justice Information System (CJIS)                   | 1,375,000     | Justice                                 | Being implemented after major revision of private contractor's design concepts. |

heard it [competitive bidding]," and so apparently was the computer industry. But Gould predicted that the extra effort and administrative cost expended in drawing up truly competitive specifications in a field so dominated by IBM would be more than compensated by "long-run savings" through better equipment.

The consolidated center for which the two abortive IBM computers had been destined has now been named the Stephen P. Teale Data Processing Center, in honor of the retired Senator who carried the enabling legislation last year, and its site is being prepared at the Department of Motor Vehicles. Though Univac dropped out of the second round of bidding with a public flourish and a replay of the charges of uncompetitive bidding, the legislative critics appear to accept the administration's change of heart. The analyst who prepared several reports for the Legislature critical of the administration's EDP efforts, William Behnk, calls the new round "a true competitive-bid situation", given what he calls IBM's "fact-of-life advantage" as the industry giant.

Just to make sure that the administration remains converted, however, the Legislature has held back about

\$4 million in the 1973-74 budget for converting to the Teale center pending award of the computer contract, which is scheduled for October 30th.

But obtaining equipment is only a necessary step toward EDP consolidation, in Behnk's view. Aside from the social questions of privacy and confidentiality there is the original goal used to justify consolidation: to gain economy and efficiency without losing effectiveness. Behnk raised this point in his February report to the Legislature:

Although the [consolidation] plan touches on many aspects of EDP in state government, it is in essence a plan only for consolidation of EDP equipment and operations. In our judgment, significantly more attention must be given to other aspects of the appropriate use of computer technology by the many departments which the consolidated data centers are to serve. We are concerned that the Department of Finance, especially, has failed to appreciate fully that the purpose of consolidation is to enable users to use EDP more effectively and that it is not just a means to reduce the number of computers in state government. ■

# Alum Rock's Tuition-Voucher Test Ends First Year With More Schools Set to Try It

By DENIS P. DOYLE

One of the nation's most controversial and closely watched education demonstration projects completed its first year of operation last month. Hailed by proponents as the most important educational innovation in recent decades, it has been labeled by critics as an outright attack on the public schools. The project at issue is the tuition-voucher demonstration in the Alum Rock Union Elementary District in San Jose.

Financed by a \$2.4 million federal grant from the U.S. Office of Economic Opportunity, the voucher project reverses the conventional system of public-school support. Instead of disbursing tax funds directly to participating schools, parents are given for each of their school children a negotiable certificate equal in value to the cost of the child's education in the district's schools. Each school, in turn, receives its full income from the vouchers collected from students who choose to enroll there. Thus, the schools are held accountable to parents: a school that fails to satisfy parents faces both a declining enrollment and a declining budget; schools that respond to parental interest receive financial support.

The underlying idea being tested is that the consumer has an equal or better sense of his own self-interest than does a remote bureaucracy. The corollaries of parental control over a child's education, or "consumer sovereignty", according to proponents of the new system, are a variety of market-place phenomena: greater responsiveness on the part of suppliers, greater diversity, direct rewards for effective suppliers, and financial penalties for ineffective supplies.

## Five constraints

These underlying notions were first proposed by Milton Friedman, a conservative economist at the University of Chicago. Subsequently, the Research and Evaluation Division of OEO commissioned a study by the Center for the Study of Public Policy in Cambridge, Massachusetts, to identify the strengths and weaknesses of such a system and design a working model. The final study recommended that a voucher project

be tested, subject to significant constraints. Five major constraints were applied to the Alum Rock experiment:

- Participating schools may not charge more than the value of the voucher. This is intended to eliminate any "skimming" of children from middle-class and wealthy families, and to force the schools to operate within a fixed-tuition income.
- Participating schools must accept all applicants if there are sufficient places. If there are more applicants than places, at least 50 percent of the students must be selected randomly.
- Racial and ethnic discrimination in the hiring of staff and admission of students is prohibited.
- The schools must provide accurate current information about themselves to permit parents to make intelligent choices among alternatives.
- Educationally disadvantaged children receive an additional "compensatory" voucher to make them more "attractive" to the schools and to provide special programs for these children.

(In OEO's original plan, private and parochial schools were to participate if they accepted the same conditions imposed on participating public schools. However, because legislation needed in California to permit such participation was not passed, the Alum Rock project is restricted to public schools.)

## Six schools participate

The Alum Rock district began its voucher demonstration project last September, only five months after OEO agreed to fund its application for participation. Six of the district's schools, enrolling nearly 4,000 children, chose to participate. The parents of each child were issued a voucher equal to the entire district's average (budgeted) per-pupil cost of education. In addition, about half the participating children were identified as educationally disadvantaged and received compensatory vouchers. For the past year, then, six Alum Rock schools received income on the basis of the number of students enrolled. If students left or transferred, a school lost income; schools that attracted and held students increased their income.

The schools themselves were subdivided into independent educational and administrative units. These "mini-schools" were the product of intensive faculty planning that began when the OEO grant was awarded the preceding April. Twenty-two "mini-schools" were developed, each with its distinctive curriculum, educational philosophy, and budget. Parents were advised of these differences and then encouraged to choose the one they wanted for their children.

The results of parental choice are now known, and,

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*Denis Doyle has been associated with education vouchers since 1970 when he was assigned by the Assembly Education Committee to explore implementation of a voucher demonstration project in California. Subsequently, he worked with Christopher Jencks, in Cambridge, and the U.S. OEO on the voucher project. He is currently an Assistant Director of the National Institute of Education, with responsibility for planning voucher projects. Earlier articles on the voucher plan appeared in the February 1971 and May 1972 issues of California Journal.*

although full interpretation will take some time, the most significant decisions were of three kinds:

- Decisions to enroll (or later transfer) their children in a school other than their "neighborhood" school. Of the 2,350 families in the project, about 30 enrolled children in non-"neighborhood" schools.
- Decisions to transfer their children from one "mini-school" to another (within the same building) during the school year. Approximately 100 parents made this choice.
- Decisions to enroll one child in one program and another child in a different one. Approximately 410 families made this choice.

Parents who made the third choice, to place different children in different programs, represented 40 percent of the multiple-child families that participated. This result was unexpected, and the reasons for these decisions are not yet fully understood. For example, it is tempting — even reasonable — to conclude that the parents chose different programs for different children because they had a well-developed sense of each child's particular educational needs and interests. It is equally likely, however, that the parents simply followed the advice or example of the preceding year's teachers, who, when they created "mini-schools", separated themselves into distinctive educational environments. Johnny or Suzy may simply have followed Miss Smith or Mr. Jones to his or her new "mini-school." Nevertheless, it appears on the basis of these facts, that parents took seriously the task of choosing their children's schools. Whether they chose wisely or poorly remains to be seen.

### **Ethnic balance**

It is also encouraging to find that the ethnic balance of the participating schools has not shifted significantly. Since San Jose is regarded as the most highly integrated metropolitan area in the nation, voluntary continuation of this pattern in school enrollment is a healthy and important sign.

The only noticeable ethnic shifts occurred in a bilingual, Spanish-English program, which drew a disproportionately high Mexican-American population, and in a gifted or "enrichment" program, which also attracted more Mexican-American children than previously. The modest enrollment shift in the bilingual program was to be expected, but the shift in enrollment in the program for gifted children was remarkable. Typically, programs for the gifted are heavily weighed in favor of middle-class "anglos". This is due largely to the fact that "gifted children" are selected by achieving a certain score on "I.Q." tests, which many educators believe to be culturally biased. In Alum Rock's voucher-supported school for the gifted however, admission was secured by self-selection; if his parents thought John or Juan gifted, he could be enrolled without the IQ test. As a result, the overall enrollment more nearly reflects the ethnic ratios of the community than in the past.

### **Lessons for researchers**

In addition to bringing profound changes to Alum Rock, the voucher project has had an interesting effect on those educational researchers in Washington, D.C., and Cambridge who first developed the theoretical voucher model. They are no longer as casual and sanguine about recommending adoption of massive educa-

tional changes; launching the voucher project has forced the realization that major and controversial changes come about slowly. To its credit, Alum Rock, in negotiating its grant from OEO, insisted that OEO's original plan was too ambitious. District representatives argued — rightly, it appears — that the whole district could not be converted to vouchers overnight. Superintendent William Jefferds proposed that only highly motivated principals and teachers participate in the first year. His judgment proved correct: pragmatic, day-to-day problems of management and logistics alone would have swamped any but the most dedicated and serious.

Looking back, it is clear that educational theorists had much to learn about undertaking a project of this kind. Yet, the match of practical experience at the district level with the enthusiasm of educational researchers and planners has been healthy. In fact, the real evidence of the voucher project's initial success is Alum Rock's view of the future. By faculty votes ranging from 66 to 80 percent, seven additional schools, with an enrollment of 5,000 children, have asked to join the voucher project.

Equally significant, perhaps, is the fact that, after years of bitter denunciations, professional education associations are beginning to offer, if begrudgingly, some support. The California Teacher's Association, for example, is even talking about supporting SB 600 (Harmer), the voucher enabling legislation currently before the California Senate, which has been defeated by the educational establishment in previous years. Support of that kind is surely calculated to make Washington bureaucrats and Harvard intellectuals conclude that they have either developed a very good idea, or else a very bad one. 

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### **Highway Patrol begins test to see if all cars must be inspected**

On July 1st, the California Highway Patrol began experimenting with its long-standing roadside safety-inspection program to see if the present random sampling of vehicles is sufficient to assure that all cars are adequately maintained. The federal government wants all cars to undergo required safety checks annually. But California, with 14 million registered vehicles, balked at the requirement, which it estimates would cost motorists \$300 million a year. The present random-sample program, which the CHP considers adequate, costs about \$8.5 million. The federal government agreed to a year-long study to give California a chance to prove its contention.

The experiment calls for a thorough inspection of all cars in some counties (Madera, San Benito, and Tehama), and inspections of varying degrees of thoroughness of varying percentages of vehicles in others. In Monterey and San Luis Obispo counties, for example, 30 percent of the vehicles will be checked. In Sacramento County and San Francisco, 15 percent of all vehicles will undergo thorough checkups, while in Santa Barbara and Los Angeles counties 15 percent of the vehicles will undergo only an abbreviated inspection. Four unnamed counties will be spared the tests, serving instead as an experimental control against which to measure the results elsewhere.

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## Counties Worry About Keeping Farm Pests Out Now That State Has Closed Most Border Checkpoints

By DENNIS CAMPBELL

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Controversy over how best to protect California's \$4.5-billion-a-year agriculture industry from destructive insects, weeds, and animals may be about to end a four-year hibernation. Focal point of the simmering debate is the state Department of Agriculture's use of border inspection stations to screen incoming vehicles. In the words of Dan Y. Rosenberg, chief of the department's Exclusion and Detection Division, the border stations have been "phased down" in the last four years as part of a program to develop more effective means of keeping pests out of the state. But many county agriculture commissioners, to whom much of the responsibility for pest control has been shifted, are unhappy with the results so far. And some entomologists within the Department of Agriculture share their concern.

Although Rosenberg says he foresees no further "phasing down" of border inspection stations, Bob Howie, agriculture commissioner for the County of Riverside, replies: "There isn't anything left to phase down." Howie heads a committee of county agriculture commissioners that will soon, he says, revise the issue of what role border stations should play in preventing certain destructive pests from gaining a foothold in California. To the commissioners, it's just a matter of time before one does, and the gypsy moth, with its ravenous appetite for timber, appears to be a likely candidate.

### Enforcing quarantines

California began using border stations in 1921 as a tool in its now 92-year-old plant-quarantine operations. The Department of Agriculture enforces 76 plant quarantines. Forty of these are designed to protect California against the entry of serious pests known to occur in other states but not yet established here.

Because California agriculture is in something of a unique situation in terms of production, climate, and geography, plant quarantine plays a more important role here than in any other region of the United States. California supplies, for example, more than 40 per cent of the nation's fresh fruits and vegetables, and a large share of dried fruits, nuts, dried beans, sugar beets, cotton, flax, and potatoes. Because most fruits and vegetables are high-investment crops requiring a high per-acre return to sustain production from year to year, a severe pest outbreak could cause an immediate and expensive crop loss.

California also has an extensive range of climate and crops. Climatic conditions vary from high plateau

to subtropical, from humid to arid, and there are more than 200 commercially grown crops, the largest number in any state. The extreme variation in crop and climate assures that, at some place in the state, almost any plant pest can find conditions favoring its establishment.

The geographic isolation of California also dictates the need for a plant-quarantine program. The natural migration of plant pests is impaired by the Sierra Nevada Mountains and the desert on the state's eastern and southern borders, the Pacific Ocean on the west and the Siskiyou and Warner Mountains on the north and east. As a result, most plant pests that enter California are brought in unwittingly by travelers.

Border stations inspected 9.8 million vehicles in fiscal year 1970-71, and Department of Agriculture officials expect nearly 19 million vehicles to be entering California annually by the end of this decade, so the potential threat of entry by this means is growing rapidly. Plant quarantines, whether enforced through border inspections, interior detection and eradication programs, or a combination of both, are the only means of limiting the harm that man, as a carrier, might do to the state's agriculture.

Once an infestation breaks out, farming methods in California favor its rapid spread. The state's agriculture industry is essentially one of specialty crops. Large areas are devoted to the planting of single crops in contiguous areas. There are for example, the early potato regions in Kern County, canning-peach districts in Sutter, Yuba, Stanislaus, and Merced counties, citrus plantings in southern California and the Central Valley, and lettuce plantings in the Salinas and Imperial areas. A pest that feeds on a particular type of crop is, therefore, able to spread quickly with devastating results.

### Beware of nematodes

The list of pests that the Department of Agriculture, in cooperation with the county commissioners, has succeeded in keeping out of California is a lengthy one. It includes the Caribbean fruit fly, cloudy winged whitefly, imported fire ant, cotton boll weevil, sweet potato weevil, plum curculio, pink bollworm, Mexican fruit fly, pickleworm, European corn borer, sugarcane borer, cherry fruit fly, reinform nematode, dagger nematode, and gerbil. These are some of the pests intercepted in border inspections in fiscal year 1970-71.

The importance of their exclusion is illustrated by the case of the cotton boll weevil. California is one of the few major cotton-producing states in which the cotton boll weevil has not become established. But it is not difficult to measure the potential loss it might inflict were

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it to enter and spread through California. In 1970, California harvested 662,400 acres of cotton valued at \$179,293,000. Cottonseed production was valued at an additional \$33,567,000. The 10-year average loss to the boll weevil in southern producing states is estimated by the United States Department of Agriculture at 10.4 per cent. Were California to experience the same rate of loss, the damage would amount to \$22 million.

### Ominous overtones

If the list of pests so far excluded from California suggests evidence of success to officials of the Department of Agriculture, it has more ominous overtones for county agriculture commissioners and some entomologists. They fear that the lessening reliance on border inspections means the inevitable establishment in California of a variety of pests not now found here.

The debate over border stations flared for the first time in 1968. It was then that J. Earl Coke, Governor Reagan's Secretary of Agriculture and Services, revealed a plan to close the 18 inspection stations on the Oregon, Nevada, and Arizona borders over a five-year period.

A 72-member committee was appointed in 1969 by then-Agriculture Director Richard Lyng to study that plan in particular and California's \$10-million-a-year plant pest prevention program in general. The study was spurred, Lyng said, because auto traffic was increasing so rapidly that efficient inspection of cars would soon become impossible. As an alternative to border inspection, the department proposed to expand — while the stations were being phased out — its program for detecting and eradicating pests once they had entered the state.

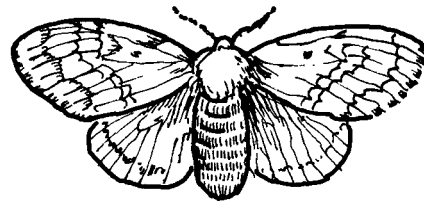
Under the department's alternative, local inspections were to be increased with the aid of a new state unit functioning in six major districts. The emphasis, the department explained, would be on search-and-destroy methods, with county staffs carrying much of the responsibility for detection. The alternative plan would depend in good measure on the cooperation of other states and the federal government to initiate procedures to certify at points of origin that plant shipments meet California's quarantine standards. County detection was to center on residential areas, commercial crops, nurseries, forests and range lands, high-hazard entry and destination points, and storage and processing areas. The county effort was to be based on a grid-survey method conducted by state-trained county personnel. (Under this method, a county is divided into grids, and monitoring takes place systematically, grid by grid, until the entire county is covered; then, it begins again.)

### Opposition stirs

But opposition to the plan was immediate and vocal. For example:



**Adult Female Fly**



**Gypsy Moth**

- Bruce Wade, President of the California Agriculture Commissioners Association, charged that use of detection within the counties as an alternative to border inspection would require "24-hour, seven-day-week crews."
- Forrest Darby, agriculture Commissioner for the County of Sacramento, said the state plan is "like opening your windows and doors for flies and then killing them after they get in your house."

Statements like that, the opposition of various farm groups and scientists, and sentiment on the Lyng-appointed committee for a compromise led to modification of the state's plan in March 1969.

The late Jerry Fielder, who had moved from Chief Deputy to state Director of Agriculture, announced that the administration was dropping its plan to close all border quarantine stations. A meeting subsequently with the county agriculture commissioners at the Pan American Building in Los Angeles, he said, produced an agreement calling for a station-by-station study of inspection efficiency at the border entry points.

The Pan Am Agreement, as it is known by the commissioners, provided that the state would continue to operate its border stations, while the commissioners assumed increased responsibility for monitoring for pests at such likely sites within the state as storage terminals. The commissioners also were to help evaluate the efficiency of the border stations and determine which might be closed or operated on a reduced schedule. The essence of the agreement, however, was the state's pledge to operate the border stations on what was called a "biologically sound" basis.

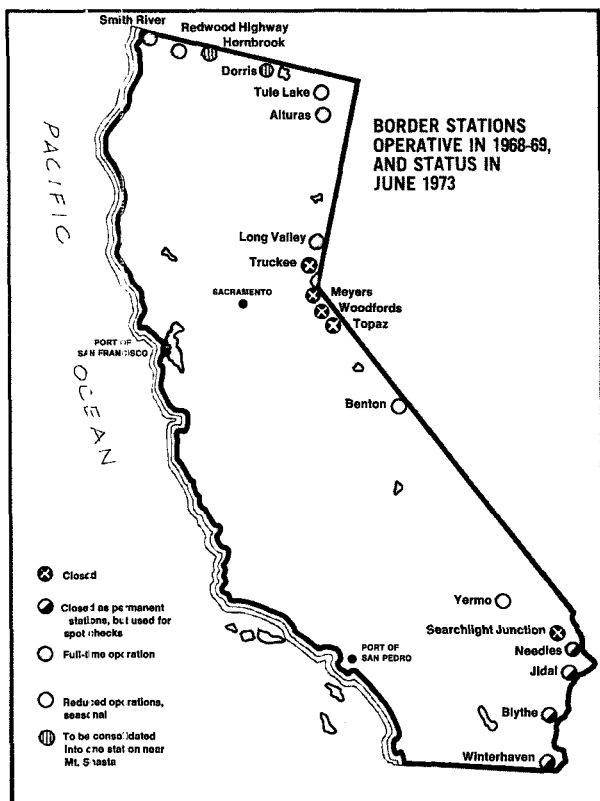
### Growing disenchantment

That was four years ago. Today, the essence is perhaps unchanged, but the commissioners have become increasingly disenchanting with the state's operation of the border stations. For the commissioners in 1969, "biologically sound" suggested a guarantee that the department would continue to rely on the border stations as an integral part of the state's pest-control program.

For the department, however, the phrase suggested the criteria that justified the closing since 1969 of the Arizona border stations at Searchlight Junction, Needles, Vidal, Blythe, and Winterhaven; the closing of the Nevada border station at Woodfords; the seasonal operation of Nevada border stations at Topaz, Meyers, Long Valley, Alturas and Tulelake; the seasonal operation of Oregon border stations at Smith River and Redwood Highway, and the planned combining of the Oregon border stations of Dorris and Hornbrook into a single, new station near Mount Shasta (see map).

"We believe we are getting more for our dollar now," says Rosenberg of the border-station phase-down. "We believe we are more efficient."

But a well-placed source in the department believes



that the aftermath of the Pan Am Agreement has let the state's guard down at the border without fully implementing the interior detection program that was intended to replace it. "Not all the counties have implemented stepped up detection procedures," this source said. "And not all counties have the personnel qualified to carry out the kind of responsibilities the department has assigned them. I'm afraid some destructive pests will become established in California long before we are able to detect them and stop them from spreading."

Rosenberg counters such comment with the statement that the department has expanded its training program for county personnel in the last four years. As a result of its new program, he said, the department has been able to increase its staff in the detection of weed and vertebrate pests. And, while conceding that his division has had an overall reduction in manpower due to the station closures, Rosenberg boasts of having more professional personnel in it now.

#### Regional control

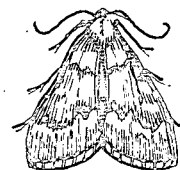
A key to the department's changes at some stations has been a growing emphasis on regional control of pests. The Arizona stations were closed as the result of an agreement signed in May 1972. Under it, Arizona agreed to enforce California quarantines on its eastern border. An agreement to certify cherries at their point of origin before shipment from Oregon into California has relieved the Oregon border stations of that inspection burden. And the department is studying the possibility of enforcing certain regional quarantines in cooperation with Nevada.

None of this has succeeded in reassuring the county commissioners, however.

Howie, of Riverside County, argues that the plan now in effect is not the one the commissioners agreed to in 1969. Nor is he comforted by Arizona's promise



**Avacado Seed Weevil**



**European Corn Borer**

to protect California's agricultural interests. "In the first place," he said, "Arizona has many pests that we don't have, and we have now opened our border to these. In the second place, their inspectors are naturally concerned with Arizona's quarantines more than with California's." Rosenberg replies that California is helping Arizona improve its quarantine program.

Ralph Lichty, Los Angeles County commissioner, points to the gerbil (a rodent) and ozonium root-rot as pests that California might inherit from Arizona. "The gerbil is raised as a pet and brought in sometimes that way," he said in an interview. "It can do great damage. Arizona has the root rot, and it could attack alfalfa and cotton in California."

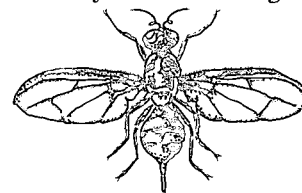
#### Fear of the gypsy moth

Claude Finnel, Imperial County commissioner, expressed apprehension, too. "I don't believe Arizona is enforcing the quarantines as we might have hoped," he said, adding wryly: "The only problem the Arizona agreement solves is the state's budget problem. We're resigned to the fact that we've lost our external quarantine system. We're spending an extra \$30,000 a year in this county to beef up our interior inspection, but it isn't the same as border inspection. We stopped the gypsy moth, for instance, for years, but now it should get through."

The gypsy moth is a pest noted for its voracious appetite and eat-and-run habit. Last year, for example, it destroyed 400,000 acres of timber in the northeast United States and Appalachia. And Finnel is not the only county expert concerned about the gypsy moth. Jess Grisham, Siskiyou County commissioner, and Sacramento County's Forrest Darby are similarly convinced that it will become established here.

"Siskiyou is a pretty big county, you know," Grisham said, "It will take us five years to inspect this county using the grid system. That's plenty of time for any pest to settle in comfortably." Darby says the continued reliance on border inspection would not have guaranteed that the gypsy moth would be kept out of California. "It just would have given us better odds," he said, adding that a local infestation in Butte County was recently discovered and presumably eradicated.

The state specialists concerned about the closing of the border stations also believe the gypsy moth to be a likely candidate to take up future residence in California. If it does, Howie and his county colleagues know that the newcomer's arrival will not go unnoticed, for long, and they figure that credit for letting such a pest in should go where they think it belongs - to the state. 🏛️



**Dacus Dorsalis Hendel (adult female)**

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## Agriculture's Bigger Than Ever in California, but Its Legislative Clout Has Been on the Wane

By T. J. BURNHAM

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Agriculture still defines itself as California's leading industry and California as the nation's leading producer of foodstuff, and yet the "food and fiber" industry has been watching its political clout in the state Legislature diminish in recent years. At the same time, an increasingly urban-oriented Legislature, mirroring the increasingly urban state, has put agriculture on the defensive in many issues involving in particular the environment it depends upon — the use of pesticides and air pollution notable among them. The political reality for agriculture in California government today is that only five percent of the state's residents now are farmers. And, in a Legislature whose representatives now come from districts based on population rather than geography, there are far fewer "dirt-under-the-nail", farmer-oriented law-makers in Sacramento than was the case 10 or 15 years ago.

One of the last of these is Howard Way, Chairman of the Senate Agriculture and Water Resources Committee. Way cited these examples of agriculture's waning political influence in California:

- In 1963, a bill to ban DDT was quickly killed in committee, yet today the pesticide has been nearly phased out of all farm uses, despite agriculture's continued opposition on the ground that no suitable alternative has yet been developed.
- Farmers successfully opposed plans to export northern water south until 1959 when, farm-bloc power fading, many agricultural interests switched from outright opposition to seeking to irrigate mid-state fields as the water headed south.

The basic change in agriculture's political clout came through the special reapportionment of the Senate in 1965, in the wake of the U.S. Supreme Court's ruling that legislative districts must be drawn up according to the principle that one person's vote should count as much as another's and no more, regardless of where the voter lives. The result of that so-called one-man, one-vote reapportionment, not surprisingly, was to bring to Sacramento a far more urban-oriented upper house than when Senate districts were drawn in terms of geographic equality rather than population. The Assembly, meanwhile, continued its urban preponderance.

Today, one informed estimate is that the number of Assemblymen "unusually concerned" with agricultural problems dropped from 24 in 1958 to 19 in 1973. In the Senate, the number of agriculture's stalwarts

dropped from 24 Senators — a majority — to 15.

Agriculture's view of what has happened in the Legislature was described by James Van Maren, the California Chamber of Commerce's Director of Agriculture and Consumer Affairs (whose titled, incidentally, suggests the changing attitudes of farm interests toward legislation), in these terms:

There are a great deal fewer legislators today who are sold on the needs of agriculture before we talk with them. I remember a time when you could count on a certain group of people in the Capitol who would back agriculture's concerns solidly and enthusiastically. Today, we find ourselves explaining every point, struggling to win every step of the way.

More men are definitely needed to carry agriculture's message to the Legislature today. There is a basic lack of kindred interest for agriculture among urban legislators. These are people who care about what happens to agriculture, of course, but haven't the farm background traditionally associated with most of our former agricultural leaders in the Legislature. They just don't know what we're talking about, and it must be taken piece by piece.

Richard Johnsen Jr., Executive Vice President of the Agricultural Council of California, regrets the shift, of course, but attributes the increased difficulty of lobbying agriculture's interests to more than the real loss of direct political clout through reapportionment. Agriculture itself, he said, has had to broaden its interest in legislation. For example, a recent meeting of the California Cattlemen's Association's legislative committee discussed 100 pieces of legislation that it identified as affecting the future of the beef business. The monthly newsletter of the California Grain and Feed Association usually contains at least six pages listing the bills it considers important.

Such grass-roots farm organizations as the California Farm Bureau Federation have also adopted a wider optic in viewing legislation. "We're representing a man who is part of society, not just a farmer," explained the bureau's president, Allan Grant. "He wants us to explain what is going on not just with farming, but in all types of legislation. Our only chance in getting anywhere with the state Legislature is to get on an even keel with the urban legislator — understand his ground, so to speak." As an example of the bureau's new "get-involved" policy, Grant pointed to the fact that it took a stand on all 22 state ballot propositions last year. "Everything affects agriculture," Grant said.

The general involvement of farmers in non-farm

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*T. J. Burnham specializes in reporting on agricultural matters.*

issues is perhaps less a matter of choice than necessity, particularly in view of their diminished built-in legislative representation. Such contemporary issues as legislation relating to the environment more often than not seem to focus first on changes involving the state's growers, Johnsen believes, than on those involving a legislator's urban constituents, who may yet be closer to the source of the problem. And he cites the case of air pollution: "Even though the worst form of the poison we breathe comes from cars and industry, it was the farmer who was first regulated by non-burn days and told to get a permit to light a match to his rice fields."

Today, Johnsen said, he must spend much of his time seeking to make agriculture's concerns heard in a Legislature where environmentalists are finding increasing receptivity — and sometimes, in his view, at the expense of agriculture. "These crusaders seem to forget the farmer is the most basic conservationist of all," he argued. "It's the lack of understanding of rural life such as this that makes the farmer out to be a culprit of the ecology. We spend a lot of important time fighting this sort of image when we should be talking about farm legislation."

Many farm lobbyists consider their most important mission to be to educate city-oriented law-makers of agriculture's importance to their constituents. "Urban representatives occasionally forget, or never realize, how much of their lives depend on the agriculture business," Johnsen asserted. The need for such "education", he said, is obvious in view of what he sees as a trend over the last four years toward reducing state support for farm programs that agriculture considers vital to the general public. Among the cutbacks:

- The state once paid the entire cost of a program to control an agricultural pest known as the beet leafhopper. The subsidy is now 50 percent of cost, and Johnsen predicts that state support will eventually be phased out altogether.
- A research program in poultry has lost \$150,000 in annual state support.
- A program aimed at preventing the animal disease, brucellosis, lost a \$300,000 subsidy.

Johnsen's colleague on the Agricultural Council, lobbyist Leland Ruth, explained such cutbacks as part of a state effort to make agriculture more independent of government. Far from disputing the point, C. B. Christensen, Director of the state Department of Food and Agriculture, said agriculture should indeed seek to increase its self-sufficiency. Christensen, a Modoc County cattleman, is proud of the fact that the beef industry receives no subsidies or research funds.

#### **'Downright reluctance'**

Even administration farm bills have a much rougher time in the Legislature now, according to the department's chief lobbyist, Don Weinland. "When I began working with the Legislature in 1961," he recalled, "law-makers were eager to get a farm bill. I could almost pick who I wanted to carry them. Today, there's a lot less of that kind of eagerness — and a lot more downright reluctance to pick up a farm bill."

That change in attitude is clear when it comes to assignments on legislative committees, Senator Way said. Once, the Senate and Assembly agriculture committees were considered a political plum. "It took a bit of promotion from some of my own friends for me to get on," Way said, looking back 10 years. "We had 13 to

pick, and there were about 20 to choose from every year. Today, there're only 11 seats, and we've combined with Water Resources to boot!" Furthermore, he recalled, until 1959 a 16-member joint legislative agriculture committee existed between legislative sessions to study farm problems. That committee has since disappeared, an Assembly dairy committee was dropped, and the separate Senate and Assembly Agriculture Committees have shrunk.

#### **Other committees**

Not only have the legislative agriculture committees lost much of their former appeal, but many bills that once would have gone directly to them are now channeled instead to other committees. Farm-labor legislation, for example, may not even be heard in an agriculture committee today; instead, it is referred to the Senate Industrial Relations Committee and the Assembly Labor Relations Committee. Likewise, pesticide legislation may be presented in the newer Select Committee on Agriculture, Food, and Nutrition.

It is in communicating with the members of these committees — far from agriculture's familiar turf — that the farm lobbyists invest a great deal of their energies today. "Agriculture is still as strong as ever in agriculture," Johnsen said, "but when we get into fringe areas of environmental protection, labor legislation, and similar farm-affecting but not farm-originating matters, the practical views of agricultural are drowned out by the voices which lack understanding of our needs . . ."

#### **The voice of agriculture**

If agriculture has made any gain in the last 15 years, however, it is in achieving a more cohesive industrial attitude toward the Legislature. Johnsen's Agricultural Council, for example, formed in 1919 as an association of farm cooperatives, today represents a large portion of what is called "agribusiness". (The term includes growing and processing, along with the related transportation, distribution, advertising and sales of commodities.) It employs three lobbyists who deal daily in matters ranging from regulations governing sizes of apricots to the presently controversial farm-labor bills. The council contrasts with agriculture's representation in earlier, simpler days, when a single segment of agriculture was represented in Sacramento by several separate grower organizations.

Paul Huff, consultant to the Senate Agriculture Committee, finds more "common agreement" among farmers who approach the Legislature today. Huff remembers when the dairy industry was represented by a plethora of small organizations that sometimes presented conflicting views. Today, there are but two large dairy organizations — the League of California Milk Producers and the Federated Dairymen — and they represent different sections of the state.

"Agriculture has lost ground," Huff said, "but more heads are turning in the Legislature when farmers are discussed these days. There is some new sympathy building to comprehend farm matters." Such legislators as Senator Way, he said, are depended upon more than ever by their urban colleagues to interpret agriculture's problems to them. Way's farm background certainly places him in the rare position today of speaking on agricultural matters from personal experience. He may be the last of the "real-farmer" legislators. ■

# More Voters Decline to State Party Affiliation

By STEPHEN FRANTZ

The Secretary of State's 1973 *Report of Registration* is more interesting for what it suggests than for what its tables have to say directly about California's voter, roll, now that the names of those who failed to cast ballots last November have been removed. Among the observations that do emerge are that:

- The relative strengths of the Democratic and Republican parties in California have remained relatively stable over the last 10 years.
- The two "third" parties — Peace and Freedom and American Independent — will likely disappear from California ballots by 1976.
- Whatever effect the enfranchisement of the 18-to-20-year-olds may eventually have on the state's voting, a pattern has not yet emerged.

## Major parties

The Democratic Party now has 55.2 percent of the state's registered voters, the Republicans 38.4 percent. The fluctuation of the two parties' percentage of the electorate has varied only modestly in the last 10 years. For the Democrats, the highwater mark was 57.5 percent in 1966, which receded to a 10-year low of 53.3 percent two years later. The Republican Party's popularity peaked in 1967, with 42.4 percent of the electorate, and dropped to a 10-year low this year of 38.4 percent.

## Third parties

Contrasting with the stability of the major parties is the rapid decline of the American Independent and Peace and Freedom parties since their emergence in 1968 with 1.5 percent of the electorate each. Each now has .4 percent of the electorate, which is sufficient to retain its candidates' places on the ballot in June 1974, but low enough to make its existence in 1976 doubtful at best. (Under the state Elections Code, it is easier to stay on the ballot than to qualify for it initially. To qualify, a political party must register at the beginning of each even-numbered year at least 1 percent of the total votes cast in the preceding general election. Once qualified, however, the percentage required drops to .06 percent.)

If these parties fall away, however, others may take their place. The most likely contender as of January 1972 is La Raza Unida, a party built around the interests of the state's Mexican-American population, which claims 20,543 registered voters. To reach one percent of the votes cast in the 1970 general election to qualify for the primary ballot in June 1974, La Raza Unida will need 66,334 registrants by January of that year.

## Independent voters

One trend revealed by the report of voter registration that has interesting implications for future election campaigns is the increase of the "Declined to State" category of registrants. The number of voters choosing not to designate a political party has risen steadily from 221,609 (3.3 percent) in 1971, the year the legal voting age in California was lowered from 21

to 18 years, to 460,912 (5.4 percent) this year.

The report's breakdown of voters by districts makes it clear that the reluctance to state a party preference is highest in the urban areas, and particularly notable in districts with a heavy concentration of students. In the 25th Senatorial District, for example, which encompasses the University of California at Los Angeles, 6.7 percent of the voters registered "declined to state". Similarly, the 5th Congressional District, which includes San Francisco's Haight-Ashbury, 7.3 percent of the voters had so registered. The explanation in this case might be attributed to the existence of a concentration of people who have become wary of party politics in general and who — for now anyway — still represent an exception.

The significance of the increase in nonpartisan registrants will depend on whether it continues. Because of the fall in the national birthrate and the rate of migration to California in recent years, 18-to-20-year-olds will likely remain a small and even declining percentage of the voting population. All that can be said with assurance on the basis of the 1973 report of voter registration, however, is that the power of the youth vote was greatly overestimated in terms of both sheer number and consistency of political persuasion. (For an analysis of how the student vote did, apparently, affect specific legislative races, see "Student Voter Turnout Was High" in February's *California Journal*, p. 69.) Thus, any continuation of the increase in nonpartisan registrants would likely be drawn from other sectors of the population as well as the newly enfranchised.

## Nonpartisanship and cross-filing

The fact that the two major parties will likely remain relatively stable when viewed statewide while certain districts remain highly volatile is certainly not new to politics — even in California, where little is. What the rise in nonpartisan registrants may suggest of more lasting statewide political significance, however, is a rebirth of interest in the practice of cross-filing, which existed in California from 1913 to 1959. (Under cross-filing, a legacy of Progressive reforms to decentralize political power, candidates could file for the nomination of parties other than their own; if successful, as Earl Warren was in the 1946 gubernatorial race, the nominee's name on the general election ballot was followed by a joint political designation, in Warren's case, "Republican-Democrat".)

The degree to which an increase in nonpartisan voter registration actually translates into support for cross-filing is, at this point, anyone's guess. But a yardstick does exist in the form of legislation, SB 351 (Deukmejian), to restore cross-filing in California. Its introduction in March drew some immediate editorial praise, but it is unclear from its exiration in committee last month whether cross-filing is experiencing a rebirth — or merely an afterlife.

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## New Bureau of Automotive Repair Draws Praise, Finds More Incompetence Than Fraud

*Not long ago, an undercover agent for the state's new Bureau of Automotive Repair drove an unmarked car into a San Bernardino service station. The shop had drawn the ire of several customers, who had complained to the Department of Consumer Affairs agency. The agent told the mechanic that the engine was overheating. Indeed it was: the agent himself had made sure of that by draining the radiator of the otherwise faultless auto.*

*When he returned for the car, he was handed a bill for "fixing" the radiator — and also for installing a new alternator to replace the old one, which was faulty. The agent later inspected the replacement alternator and found it not only unneeded but used.*

*The bureau thereupon took its evidence to the district attorney, and a few weeks ago the shop's owner pleaded guilty in court to fraud and was fined \$600. The mechanic was fined \$200 and ordered to spend a day in jail.*

Since the Bureau of Automotive Repair began operation last July as the first state agency of its kind in the nation, it has filed court or administrative actions against a hundred repairmen and dealers. But, in what may raise some eyebrows, skulduggery among the state's auto repairmen is proving to be less of a problem than incompetence. "What we're finding," the bureau's first chief, Robert C. Alexander, said in an interview, "is that far too many mechanics don't know what they're doing. They're not qualified. A few people are dishonest. The consumer ends up spending money for what he doesn't get. Naturally, the consumer doesn't make the distinction between fraud and incompetence."

There is scant legal relief at present for mere incompetence, though legislative help — in the form of a mechanics' licensing proposal — is again on the horizon. And the law that created the bureau, the Automotive Repair Act of 1971, is no magna carta for motorists — yet. Nearly half the 20,000 consumers who have managed to register complaints on the bureau's statewide toll-free telephone lines, often busy, had to be turned away on the ground that their allegations were beyond the bureau's jurisdiction. These included some of the hoariest gripes in the lengthy, imprecation-spiked history of repairman versus motorist: diagnosis of car ailments, product dissatisfaction, warranty coverage, inconveniences such as delay, "overpricing", and other grievances that may or may not fall under the heading of incompetence or misunderstanding.

Yet, despite its limitations, the pioneering venture into the thorny field of auto repair draws praise from all sectors. Even dealer groups that initially opposed the idea seem favorably impressed.

Since the bureau began operation last July, it has received nearly 20,000 complaints, 10,600 of them falling within its jurisdiction, 9,100 beyond it. Agents have investigated 900 cases of suspected fraud, and have filed 99 disciplinary actions against dealers. These include 62 cases turned over to local district attorneys and 15 cases that await bureau hearings. The hearings will determine whether the accused will lose their newly required state repair dealer licenses, which are permits to repair autos.

The auto repair act, which actually went into effect on March 4, 1972, requires that all automotive repair shops be licensed (fee: \$50). All customers must be provided a written estimate for labor and parts before work is done, and no charge in excess of the estimates may be made without the customer's approval. Customers must be given replaced parts, if they ask for them in advance, and an invoice describing all work done and noting whether replacement parts were new, used, or rebuilt. No repairs may be subcontracted to another firm unless the customer has approved.

With 36,468 automotive repair firms in California, not to mention motorcycle and recreational vehicle shops which are also covered by the act, the bureau is neither handsomely staffed (95 personnel of a projected 150), nor budgeted (\$2.8 million). Due to a lack of funds, there are only seven field representatives of the 10 projected. Nor does the bureau have its own investigators, as once envisioned; all regulatory bureaus within the recently reorganized Department of Consumer Affairs draw agents from a departmental pool maintained by the Division of Investigation.

"Where we're really hurting is in field personnel," observes Alexander, who was formerly a criminal justice specialist in the state Department of Justice. "We could use more. It's up to me to find extra money to hire more people, but it'll have to come from savings we can make. I'd like to build the staff to about 20." The bureau, he pointed out, is self-financing, its revenue coming from the \$50 annual license fee.

The field reps are not needed to handle each complaint the bureau receives, Alexander explained. About 60 percent of these are solved by the 15 consumer service representatives who answer calls on the five complaint lines, and Alexander says the need for more lines is under study. "We find that misunderstandings and personality conflicts account for an awful lot of trouble," he said. "When the bureau gets into the picture, things seem to straighten out. The only time we send out a field investigator is when we have a problem that needs to be looked at by an expert. The field agents are all qualified mechanics."

Of the nearly 50 percent of the complaints received

that the bureau cannot legally handle, Alexander said, the most common (2,997 so far) relates to new-car warranties. "The customer feels a malfunction should be covered by the warranty, and the dealer says no," he explained. Improper diagnosis ranks second (2,774 complaints); these are cases in which "the mechanic thinks one thing is wrong but something else is wrong instead, and you pay for his error." Inconvenience rates third (2,057 cases) and often results from other problems — "when, for example, the car breaks down again and the owner loses a day's work or must pay for a tow." Next comes product dissatisfaction (2,001 complaints) — "nothing in the act gets close to this." There have been 1,485 overpricing complaints: "This means asking outrageous amounts, from the consumers' view, before — not after — a purchase agreement is reached. But the consumer has the same choice when he goes to buy a color TV. He can always go elsewhere." Poor workmanship, "where the mechanic just doesn't do the job right, though he knows how," has drawn 1,298 complaints.

### Handled complaints

Of the 10,504 complaints that do fall within the bureau's jurisdiction, by far the most common is failure to give advance written estimates of work needed, which accounted for 6,249 complaints. The remaining complaints fall into the following categories:

- Repairs exceed written estimates, 2,289.
- Misleading statements, 517.
- False promises, 2,238.
- Unnecessary repairs, 903.
- Used parts not returned as requested, 208.
- Failure to note odometer reading, 55.
- Failure to give the customer his or her copy of any signed agreement, 69.
- Willful departure from accepted trade standards, 271.
- Gross negligence, 368.
- Unauthorized subletting of repair work, 116.
- Failure to give an itemized invoice, 786.
- Reports of a facility operating without the required repair license, 239.

Violation of any requirements of the act is a misdemeanor carrying a fine of up to \$1,000 and imprisonment up to six months. The bureau decides whether to take a case to court or to handle it through an administrative hearing, which could result in a license being suspended or revoked.

### Licensing mechanics

The auto-repair act, which was authored by Senator Anthony C. Beilenson, was opposed originally by the oil industry and new car dealers, but it drew support from consumer groups, auto clubs, the United Auto Workers, the Better Business Bureau, the Automatic Transmission Rebuilders Association, and the AFL-CIO, among others.

Organized labor, joined the dealers last year, however, to thwart Beilenson's effort to control the major problem of mechanic incompetence identified by Alexander's bureau; legislation to set up licensing and testing standards for mechanics and repair dealers within the Bureau of Automotive Repair died last year in the Senate Business and Professions Committee. "We couldn't buck union and dealer opposition to license

### Beilenson tries again to license mechanics

Senator Anthony Beilenson is trying again to follow up his 1971 legislation creating the Bureau of Automotive Repairs by seeking to license automobile mechanics. His Senate Bill 1331 aims at reducing one of the most frequent sources of complaints received by the year-old bureau — incompetence on the part of auto mechanics. Under SB 1331, mechanics would have until 1977 to obtain licenses to operate in this state, Beilenson said, giving applicants a chance to repeat the qualifying examination, if necessary.

Beilenson's original bill creating the bureau had contained a provision for licensing mechanics, but it was dropped in the face of vigorous opposition, mainly from craft unions, in order to get the bureau started.

all at once last time, so we let the mechanics out to get support," said Beilenson, who added that another attempt will be made during this legislative session. A voluntary licensing plan came within a vote of clearing the same committee, he noted. Labor's concern over the mechanic-licensing proposal so far stems from belief that competency should be part of the unions' apprenticeship programs, he said, and not controlled by the state. The consumer's problem with that is not that unions can't train their membership adequately, but that only 20 percent of the mechanics are union members.

### High marks so far

With such a major limitation in its authority to help consumers taken into account, the performance of the automotive repair bureau is rated high, even by some who originally opposed its creation. "The overall dealer reaction has been somewhat favorable," says Loren Smith, legislative advocate for the California Automobile Dealers Associations. "The dealers initially opposed it, but since passage they feel the Department of Consumer Affairs has been doing a better job than expected. They allow full and fair communication between the dealers and the department, and seem intent on solving problems rather than creating them. Any time you have a large industry — and this one is the largest in the state — and superimpose regulations on them, they're fearful of it, especially when it's as complex a business as this one."

Shirley Goldfinger, President of the Consumer Federation of California and one of five public members of the bureau's nine-member advisory board, calls the law and the bureau "very effective". "What has happened so far has been just fine, though I think more legislation is needed. People who buy new cars that are lemons, for example, need to be taken care of."

Senator Beilenson is also among the pleased. "The entire bureau, from Alexander on down," he said, "has been totally committed to the job the Legislature entrusted to them. I'm totally happy with their performance, and with what they've tried to do." And he means to continue to try to do something about incompetent mechanics. ■

# Congress Considers Penalizing Heavy Cars

By WILLIAM LIPMAN

As both motorists and legislators in California begin to assess the impact of current and anticipated shortages of gasoline, congressional proposals to alleviate the problem bear watching, not least because at several recent hearings the demand for stringent emission controls was claimed as a chief cause of the problem.

More specifically, the Clean Air Act is being attacked under the guise of conserving petroleum and shoring up U.S. balance of payments. Attacks on the 1976 emission standards have intensified markedly in recent weeks, as the time nears for freezing model specifications (for the 1976 production) and the need to rely on Detroit's only "solution" for meeting the '76 standards — the dual catalyst converter with exhaust-gas recirculation — appears inescapable. This solution, along with its "add-on" predecessors, imposes a substantial fuel-consumption penalty (as does another interim "solution", the Wankel engine). These penalties come at a time when the petroleum-supply issue threatens to escalate beyond a mere inconvenience, when the petroleum industry's explanation of the shortages is met with both skepticism and congressional investigation, and when foreign-car imports (mainly small models) continue to account for a growing percentage of the entire market — 15.7 percent in the first quarter of 1973.

Fuel economy depends upon many factors besides emissions control, of course. More important, the hard logic of systems engineering dictates that the "best" mileage can be obtained only as the result of trade-offs between clean air, safety, power, driveability, and other desirable vehicle and power-plant characteristics. Two different congressional proposals for conserving gasoline (and crude oil) illustrate the need to devise solutions with great care.

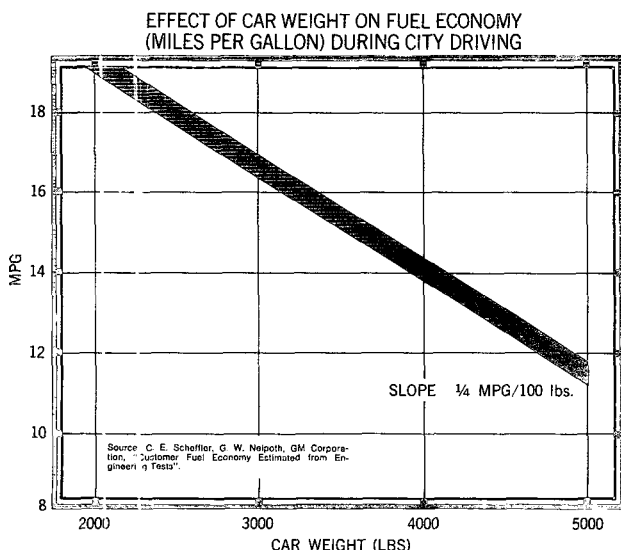
The first measure, S. 1903, calls for setting mini-

mum standards of fuel economy for each class of motor vehicles as determined by their "intended function". A schedule of fees to be paid by the manufacturer is scaled to the fuel-economy performance of their vehicles as measured by the standards, the fee decreasing as performance improves. This approach has been sharply criticized on several counts. It requires increases in fuel economy "for the 'aggregate' of all new vehicles sold" of 13 and 25 percent, on September 1, 1976, and September 1, 1978, respectively, compared with performance between September 1972 and August 1973. Since these targets could be met, at this late date, only by a massive importation of foreign cars, this proposal would exchange an oil-payments crisis for one in vehicles and parts. The minimum levels, linked to the two-stage imposition, would tend to "lock-in" manufacturers to a narrow range of possibilities, as the 1976 standards for oxides of nitrogen is reputed to have forced reliance on the catalytic converter. The class basis for enforcement might easily produce regulatory chaos, moreover, given the multiplicity of model and option combinations.

The alternative, a simple fee schedule based on propulsion efficiency (passenger miles per unit of fuel consumed, fully loaded, over a specified driving cycle) is embodied in HR 7531. Testifying before Senator Tunney's Special Subcommittee, its author, Representative Charles Vanik, noted that improving the average efficiency of the American car from 12 to 18 miles a gallon would save 25 billion gallons of gasoline annually. That is equivalent to saving 3.3 million barrels of crude oil a day.

Accordingly, the Vanik bill imposes an automobile excise tax based on a vehicle's fuel-consumption rate, determined by prescribed tests conducted by EPA. The first tax schedule covers July 1, 1976, to June 30, 1981. A more punitive schedule is imposed on July 1, 1981. (For example, the earlier schedule would impose a tax of \$32 if the fuel-consumption rate was more than 12.5 miles a gallon but less than 13; the same rate would be taxed at \$96 on July 1, 1981.) In both schedules, a rate better than 20 miles a gallon would not be taxed. Vanik emphasized that his tax is not intended to raise revenue nor to fight inflation, and suggests that proceeds go toward research and development on automotive power, mass transit, and like purposes. Noting EPA's finding that in 1958 the Impala weighed 4,000 pounds and delivered 12.1 miles a gallon while in 1973 it weighed 5,500 pounds and gave 8.5 miles a gallon, Vanik said, "The American automobile has become heavier and more laden with options for a very simple reason: it is more profitable for the auto companies. For over two decades, the Big Three . . . have deflected, or resisted outright, consumer pressure for a smaller, more efficient automobile."

California took the lead in imposing effective emission controls, and it may be that similar leadership will be needed now to secure a more efficient — and cleaner — automotive system. 🏠



# California Journal/NEWSBRIEFS

## Governor vetoes reapportionment bill; it's up to the court now

Attempts by the Legislature to pass a reapportionment measure failed again on June 28th when an attempt to override Governor Reagan's veto of SB 195, containing Senate, Assembly and congressional reapportionment failed on the Senate floor, 19 to 21, with 27 affirmative votes needed. This shifted the focus to the special masters appointed by the state Supreme Court to consider criteria and proposals for valid reapportionment plans and report to the court by August 31st with their recommendations (see *California Journal*, May 1973, page 153).

Governor Reagan announced his veto of SB 195 on June 27th, pinpointing the defects in the Assembly and Congressional district lines that made these plans unacceptable to him. He also stated, however, that he would have signed the Senate plan alone, calling it an "honest effort". A comparison of the Senate plan with the Assembly and Congressional plans shows no significant differences in compactness of districts, no greater attention to community of interest, between the plan the Governor liked and the two plans he didn't. On the surface, at least, it appeared that "honest effort" was the determining factor rather than objective criteria of "good" reapportionment. Moreover, persons close to reapportionment from both parties and both houses found a political explanation for the support of the Senate plan. If the Governor had not strongly supported the Senate plan (he even sent an emissary to appear before the masters in support of the plan), there might have been an override of his veto in the Senate followed by an Assembly override — the first to succeed in 27 years. Some Senators believe that, with the support of the Governor, the Senate plan will be approved by the Supreme Court. Whether or not this will be the case, this strategy had sufficient credibility to swing the votes of some Republicans who might otherwise have reluctantly voted to override.

In the seemingly endless reapportionment scenario there is even now a remote possibility entertained by some legislators that they will have still another chance to reapportion themselves. When the Supreme Court announces a plan later this year, the proposed district lines may be so distasteful to legislators that the plan will serve as a catalyst for finally reaching agreement. However, it may well be too late by then to accomplish this in time for the orderly operation of the 1974 elections. In any case, there is no evidence to indicate that legislators will reach a bipartisan agreement in the fall that they have been unable to reach in two and a half years of trying.

## State's 1973-74 budget — largest of any state — squeaks under deadline

The State of California began Fiscal Year 1973-74 July 1st with a budget that cleared the Legislature June 28th, in time for Governor Reagan's review, about \$80 million in reductions, and his signing. It marked only the fourth time in seven attempts since Reagan took office in 1967 that the new budget was enacted by the start of the fiscal year. (A comprehensive analysis of

the budget will appear in the August *California Journal*.)

The final document that cleared the Legislature on a 70-2 vote in the Assembly and a 34-6 vote in the Senate totaled \$9.45 billion, about 23 percent larger than the \$7.7 billion budget it succeeds. Reagan had originally requested \$9.25 billion in January (see February's *California Journal*, p. 44), though the administration subsequently received legislative approval to add \$48.6 million, bringing the total to about \$9.3 billion. Assembly changes produced a \$9.4 billion budget, while in the Senate a similar amount was shaved. In working out the final version, however, the conference committee came up with the \$9.45 billion document presented for the Governor's signature. And Reagan trimmed it to \$9.371 billion, with his cuts, which fell most heavily in welfare, child-care centers and governmental administrative costs.

The final budget provides for an average pay increase for civil service personnel of about 12.9 percent, raises for University of California and state college faculty, and 12.1 percent increases for non-teaching personnel. It also contains \$42 million for reconstruction of the Capitol, the spending of which is contingent upon holding public hearings on the subject and passing a followup bill. (The conference committee had originally proposed \$82 million for this purpose, but reduced that amount in a last-minute change). It also contains a \$500 million increase in state support for local schools, and \$400 million more in state funds to provide property tax-relief for home-owners. And it contains \$36 million to buy coastal properties for parks.

According to Legislative Analyst A. Alan Post, the budget that cleared the Legislature will leave a surplus of up to as much as one billion dollars. In fact, the existence of a surplus was a major element in the lack of acrimony between the Democratic-controlled Legislature and the Republican Governor during this year's budget debates. Nonetheless, it did generate some controversy, but only as to its size and how it should be disposed of.

The problem of disposing of the surplus in the form of income-tax relief ironically left Californians July 1st with a one-cent increase in the sales tax that neither the Governor nor the Legislature wanted. Because of the surplus, the Legislature passed a bill to delay imposition of the sales tax, but it tied to it an income-tax relief plan the Governor said he couldn't accept and so vetoed the bill June 30th. Then both he and the Legislature went on vacation — the Legislature until August 6th.

## Republicans win two Assembly special elections — one a surprise

The hectic 1973 special election schedule produced two more Republican Assembly victories on June 26th, but left Democrats with a firm 48-30 margin in the lower house. In an upset Republican Paul T. Bannai, a Gardena City Councilman of Japanese ancestry, won the 67th Assembly District runoff against Democrat Tom Rupert, Torrance City Treasurer. Bannai received 10,941 votes (54.9%) to 8,281 (4.25%) for Rupert and 706 votes (3.5%) for James Dee, American Independent

Party. Twice as many Democrats as Republicans are registered in the district.

It was no surprise that Republican William Craven trounced Democrat William Bell in the 80th Assembly District, where Republicans outnumber Democrats by a 3-2 margin. Craven, a San Diego County Supervisor, received 27,649, Bell 11,571, and Jack McCoy of the AIP, 3,234.

A runoff election will be held July 10th for the 12th Assembly District seat formerly occupied by former Republican Floor Leader Robert T. Monagan. Republican Doug Carter, San Joaquin County Taxpayers Association executive and former aide to Monagan, led the field of 11 candidates in the June 12th primary with 9,948 votes and won the Republican nomination from Dan S. Parises, a San Joaquin County Supervisor, who placed second with 8,177 votes. Opposing Carter will be Democrat Carmen Perino, also a county supervisor. He finished third with 5,976 votes.

Another special election will be held August 7th in the 14th Assembly District to fill the vacancy created by the death in May of Democratic Assemblyman Robert Crown. A runoff, if necessary, will be held September 4th.

#### 1973 Special Election Box Score

| District                                          | Seat of                                  | Primary Date | Results                                          |
|---------------------------------------------------|------------------------------------------|--------------|--------------------------------------------------|
| 22nd S.D.                                         | Carrell (D)<br>Died                      | Jan. 30th    | Alan Robbins (D)<br>won in runoff,<br>Feb. 27th. |
| 38th S.D.                                         | Burgener (R)<br>Elected to Congress      | March 6th    | Assem. John Stull (R)<br>won in primary          |
| 38th A.D.                                         | Porter (D)<br>Died                       | May 1st      | Robert McLennan (R)<br>won in runoff<br>May 29th |
| 67th A.D.                                         | Townsend (D)<br>Died                     | May 29th     | Paul Bannai (R)<br>won in runoff                 |
| 80th A.D.                                         | Stull (R)<br>Elected to Senate           | May 29th     | William Craven (R)<br>won in runoff              |
| 12th A.D.                                         | Monagan (R)<br>Washington<br>appointment | June 12th    | Runoff July 10th                                 |
| 14th A.D.                                         | Crown (D)<br>Died                        | Aug. 7th     | Runoff Sept. 4th                                 |
| Senate membership: 20 Republican, 20 Democratic   |                                          |              |                                                  |
| Assembly membership: 48 Democratic, 30 Republican |                                          |              |                                                  |

#### Governor's tax plan qualifies for a place on a November ballot

Governor Reagan's initiative to limit the Legislature's ability to raise taxes qualified for a place on a special election ballot November 6th, Secretary of State Edmund Brown Jr. announced June 26th. Under the initiative, the Legislature would be limited in the amount of revenue it could raise from taxes each year by a declining ratio of state personal income. The Legislature would have to muster a two-thirds majority to change tax rates within this limit, and a vote of the people would be needed to exceed the limit, unless the Legislature and Governor agreed that an immediate emergency existed. (For an outline of the tax-limitation plan, see *California Journal*, March 1973, p. 8.)

Brown estimated that the special election will cost the state \$7 to \$10 million. About half that amount will

be needed to prepare voting materials and count ballots, he said, and the other half will derive from the automatic day off all state workers receive whenever a statewide election is held. He did not estimate the cost to local government. In choosing the November date rather than waiting for the next regularly scheduled statewide election seven months later, the Governor has said that he wants the plan inaugurated before he leaves office in 1974. That reasoning has fed growing speculation that the tax-limitation plan is related to a 1976 Reagan-for-President strategy.

#### State delays deadline for 1966-70 car antismog devices until January

The state Air Resources Board twice last month rolled back its deadline for requiring installation of antipollution devices in most cars built during the 1966-70 model years. It first moved the original July 1st deadline for mandatory installation back to October 1st. Then, on June 21st, it set it back to January 1, 1974, a date suggested by the state Senate. The ruling applies to the 1966-70 cars registered in the South Coast, San Francisco, and San Diego air basins, where an estimated 80 percent of the state's 4.5 million 1966-70 cars are found.

About 100,000 autos have already been equipped with one of the devices under earlier phases of the program requiring installation — since February in Riverside County and since June in metropolitan Los Angeles — whenever one of the cars changed ownership. The board suspended these phases until October 1st. The mandatory installation program starting January 1st will last 10 months, with the specific deadlines set by license-plate number. Installation costs about \$35.

In a related action, the board's staff was ordered to take steps to revoke earlier approval, if necessary, for five of six of the devices submitted to it unless they are modified to protect against possible engine damage.

#### Federal auditors find state misused funds destined for the poor

The General Accounting Office, an investigative arm of Congress, reported last month that the state Office of Economic Opportunity misused \$133,000 in federal funds last year that had been provided for anti-poverty programs. The funds, the GAO said, were used to conduct "specifically prohibited" investigations of the recipients of the federal aid.

While the federal OEO's regional office in San Francisco said it was "unaware" of the state's investigations, and would seek recovery of the funds so spent, OEO Director Howard Phillips issued a statement in Washington condoning them. "The evaluations and investigations were performed with full knowledge on the part of OEO," Phillips said. "Hence, it may be said that these restrictions were implicitly waived by the agency." (Phillips, an outspoken foe of OEO programs, later last month resigned.) The state office, which was headed by Lewis K. Uhler at the time the investigations were conducted, called the actions "necessary" to collect information needed for making recommendations to Governor Reagan.

# The Untold Story of the Greening of the Capitol

Dan L. Johnson occupies an unpretentious office on the fifth floor of Office Building No. 1. A series of colored photographs of floral displays hangs on one wall. A batch of slides reposes on a shelf opposite. A drawing table occupies one end of the small, nearly square room, and on the wall below a set of large windows lighting the room from the west hang a diploma and a state certificate attesting to the fact that Dan L. Johnson is a landscape architect. His job is the greening of California's Capitol, and his responsibility starts with the Capitol grounds, some 40-odd acres of parkland in downtown Sacramento, and extends to every state building in California. Since January 1st, it also includes the Cal Expo grounds flanking the American River in Sacramento.

The centerpiece of Johnson's activities, as far as the public is concerned, is probably Capitol Park, with its permanent collection of 154 species of trees, representing all the continents and virtually every climatic condition in the world. Often spectacular color is provided by the 25 beds Wilson must keep in bloom most of the year. H designs those beds twice a year, and usually eight-to-twelve months in advance so that seed and bulb can be ordered and propagation can proceed according to a schedule that is, in its way, as precise and demanding as that of any stage manager whose job, like Johnson's, is to see not only that the show goes on, but that it goes on without fail or flaw. Johnson starts with a general scheme in which the 25 beds are related, one to the others, by color and variety. This scheme is then committed to a detailed map, which in turn becomes the blueprint followed by the gardeners.

## A changing show

The summer beds are designed by spring, and, as the spring beds are bursting with color, the seed will have been ordered for summer. "We keep a continuous watch on the beds," Johnson explains, "and we begin pulling the beds when they start to look ratty — and sometimes while they are still pretty good looking." Doing so is not without provoking some passing comment, of course, but seed must be sown before the full heat of Sacramento's summer sets in.

Once a plot is pulled, soil amendments are added as necessary. Within a week, bedding plants two-to-four inches tall, grown at the State Nursery in an industrial area on Sacramento's near north side, will have been installed. These outline in greenery the upcoming floral display, which will be filled in as the bulbs and seeds sprout and bloom according to Johnson's schedule.

Within the landscape architect's formal floral con-

cept a little room is nonetheless left for whimsy. Two beds are devoted to experimentation — trying new color combinations, perhaps, or new varieties of old favorites. This spring, for example, the bed surrounding the fountain between the State Library and Courts Building and Office Building No. 1 was divided into quadrants, and each quadrant was planted with a different-colored species of tulip. As the show began in late March, Johnson watched a bit nervously. "If they all came up together," he recalled, "it'd be a dazzling display and you'd see what I had in mind, but you never know about tulips . . ." As it happened, they did come up together, but even so it is possible that the effect will fail to please all onlookers. In that same bed several years ago, Johnson recalls, a new variety of marigold was planted for the summer show and grew to impressive height, forming a spectacular golden ring around the fountain. Some people objected, though, that the tall flowers detracted from the unique interplay of floral color and sparkling water that they associated with that particular spot.

## Experimental roses

Capitol Park also contains one of the 20 or so nationally sanctioned experimental rose gardens in the United States. Each year, several hundred roses are given to the state for installation beside the long-established plants at the eastern end of the park. Among these this year were seven new varieties that are still several years from official certification and marketing — providing that their performance lives up to the promise of their parentage.

The park is notable, too, for its collection of old camellias. Some of these plants trace their lineage to the first California camellias, which were imported by Chinese immigrants who came here attracted first by the gold rush and second by the Central Pacific's manpower shortage in building the western leg of the transcontinental railroad.

To maintain Capitol Park, the state furnishes about 12 fulltime employees and a budget of around \$115,000. With another 50 or so grounds keepers and gardeners available working on other state buildings, Johnson can shift his work force about as the need and changing seasons require.

## A new look at Cal Expo

Johnson is proud of what his staff is doing at Cal Expo. "You'd think the State Fair was opening tomorrow to look at the grounds now," he said during a recent conversation. "Before, it was just a weed patch until a week or two before the fair." Upon taking over responsibility for Cal Expo's landscaping in January, weeding was immediately undertaken and some flowers and shrubs were set out. "There's a lot of activity out there all year round," Johnson pointed out, "and we're trying to attract more." At the origin, there was a master plan under which the exposition was to become a year-round facility (see *California Journal*, August 1972, p. 224), and it included full landscaping. When the master plan was abandoned, so was the landscaping.

## CAPITOL PARK GUIDE AVAILABLE

A free detailed map of Capitol Park with three self-guiding tours and a listing of the 154 species of trees planted there is available from the Department of General Services, Buildings and Grounds Division, 915 Capitol Mall, Sacramento 95814. Copies are available within the Capitol, at the State Police counter.



## PEOPLE IN THE NEWS

The Dutch-born scientist who discovered the chemical cause of smog in Los Angeles 23 years ago, **Dr. A. J. Haagen-Smit**, announced June 25th that he plans to resign soon from the state Air Resources Control Board. Haagen-Smit, 72, named no date for his departure, explaining, "I want to do this as smooth as possible." He has served as the board's chairman since 1969. A professor emeritus of bio-organic chemistry at California Institute of Technology, Haagen-Smit in 1950 showed that hydrocarbons and oxides of nitrogen from industry and automobile exhausts react with sunlight to produce ozone and other toxic substances to produce smog. In 1960, he was named to the California Motor Vehicle Pollution Control Board, forerunner of the present board.

**Paul M. Li** was named director of the new Center for Judicial Education and Research, which began operation in Berkeley July 1st. Li, 34, had been assistant director in charge of legal research for the California Judicial Council. The center he heads will originate judicial-education programs for California judges, combining orientation programs for new judges and seminars and workshops for all judges. It is funded by the California Council on Criminal Justice.

Cosmetics millionaire **William Penn Patrick**, who once suggested that retired Chief Justice Earl Warren should be hanged, died June 11th when one of his vintage aircraft crashed near a home he was building in Lake County. He was 42. Patrick, who was broke 10 years ago, in 1964 put \$16,500 into cosmetics and saw his investment blossom into a million-dollar return within a year. As part of a "master plan" he said he had drawn up for himself when he was 20, Patrick ran for the Republican nomination for Governor in 1966. He managed to poll only about one-tenth of Ronald Reagan's winning total however, and also lost a \$300,000 slander suit to Mervyn D. Field, who runs California Poll and whom Patrick had charged with slanting a poll that

showed Patrick getting only one per cent of the vote.

The California Public Utilities Commission re-elected **Vernon L. Sturgeon** as its president last month. Governor Reagan earlier this year had reappointed him to a six-year term on the PUC. Sturgeon, who served as the Governor's legislative secretary, had originally been appointed in August 1969 to fill an unexpired term. Before joining Reagan's staff, Sturgeon had served two terms as state Senator from San Luis Obispo County.

**Walter E. Craven**, since 1967 warden of Folsom Prison, last month was named deputy director for operations of the state Department of Commissions. Craven, 45, will be in charge of 12 prisons, 18 conservation camps, and 62 local parole offices. He succeeds Robert L. Eklund, who retired in May.

The Governor lost his chief lobbyist last month when **William A. Evans**, Reagan's legislative assistant since last July, resigned the \$28,875-a-year job to return to private business. Reagan appointed **John S. Tooker**, director of the state Office of Planning and Research, to succeed Evans. Tooker, 38, a graduate of the University of California, Davis, joined state service in 1968 as a special assistant in the Resources Agency. Before that, he was with the Los Angeles Chamber of Commerce.

**Ronald M. Kurtz** has been named chief deputy director of the state Department of Social Welfare, his third appointment this year. Kurtz, 37, had been assistant chief deputy since March, and has been with the state for 10 years. Earlier this year, Kurtz was named deputy director of operations in the Department of Health Care Services, who is responsible for Medi-Cal management.

The Governor named **Robert J. De Monte**, 30, to direct the state Office of Planning and Research. De Monte was director of the Department of Housing and Community Development and, before that, deputy director of the Department of General Services.



## CALIFORNIA CALENDAR

|            |                                                                                                                          |            |                                                                                                                        |
|------------|--------------------------------------------------------------------------------------------------------------------------|------------|------------------------------------------------------------------------------------------------------------------------|
| July 12-13 | <b>Board of Education.</b> Auditorium, Resources Building, 1416 Ninth St., Sacramento. 9 a.m.                            | July 26-28 | <b>Social Welfare Board,</b> Hyatt House, 1 Union Square, San Francisco. 7:30 p.m.                                     |
|            | <b>Highway Commission.</b> City Hall Council Chambers, 37 Fair Drive, Costa Mesa. 9:30 a.m.                              | July 27    | <b>Council on Criminal Justice.</b> Burlingame Hyatt House, San Francisco. 9:30 a.m.                                   |
|            | <b>Law Revision Commission.</b> State Bar Building, 601 McAllister St., San Francisco. 7:00 p.m.                         | July 30-31 | <b>Board of Equalization.</b> Room 102, 1020 N St., Sacramento. 2:00 p.m.                                              |
| July 13    | <b>Park and Recreation Commission.</b> State Building, Room 1138, 107 South Broadway, Los Angeles. 9:00 a.m.             | July 31    | <b>Coordinating Council for Higher Education.</b> Host of Sacramento Hotel, Sacramento Metropolitan Airport. 9:00 a.m. |
|            | <b>Regents of the University of California.</b> University Extension Center, 55 Laguna St., San Francisco. Hour not set. | Aug. 9-10  | <b>Highway Commission.</b> Public Works Building, 1120 N St., Sacramento 10 a.m.                                       |

# Selected State Government Reports

## COURTS AND THE LAW

**Proceedings of the Drug Abuse Institute For Trial Court Judges;** Vol. 1: General Sessions, 125 p., and Vol. II: Small Group Discussions, 180 p. Sponsored by the Judicial Council of California and prepared by the Administrative Office of the California Courts. June 1972. Available from the council, 455 Golden Gate Ave., Room 4200, San Francisco 94102.

**Recommendations of the California Law Revision Commission** are available from the Stanford School of Law, Stanford 94305, on the following subjects: unclaimed property (14 p.), enforcement of sister state money judgments (21 p.), inheritance rights of non-resident aliens (4 p., plus appendices), erroneously ordered disclosure of privileged information (5 p.), and the "criminal conduct exception to the physician-patient privilege", State Evidence Code (12 p.). These are "tentative" recommendations, and the commission invites comment on them.

## EDUCATION

**Report of the Advisory Committee on Early Childhood Education;** Available from Assembly Committee on Education. May 1973. 71 p. State Capitol, Sacramento 95814.

**Elementary and Secondary Education Act of 1965, Title III, in California, 1971-72;** a report required by Education Code Section 581.1, prepared by the Office of Program Evaluation and Research. 1973; Department of Education, 721 Capitol Mall, Sacramento 95814. 20 p.

**Ratios of California Public School Nonteaching Employees to Classroom Teachers** (as of November 1, 1970, 1971, and 1972): by state Department of Education, 721 Capitol Mall, Sacramento 95814, in compliance with Section 325 of the Education Code; finds in general summary that, to every 100 teachers, there are 7.1 persons in administrative services, 6.3 in pupil services, and 57.1 classified or noncertificated employees.

**The Purposes and the Performance of Higher Education in the United States;** by the Carnegie Commission on Higher Education, 1947 Center St., Berkeley 94704, and available from McGraw-Hill, 1221 Avenue of the Americas, New York 10020. (\$2.45) June 1973. 107 p.

## EMPLOYMENT

**Final Report of the Assembly Advisory Council on Public Employee Relations;** prepared by Assembly Office of Research and UCLA Institute of Industrial Relations. March 1973. Assembly Office of Research, State Capitol, Sacramento 95814. 267 p. plus appendices, 47 p.

## ENVIRONMENT

**Lake Tahoe Vegetation II: Natural Vegetation Zones;** by James A. Nelson, Institute of Governmental Affairs, University of California, Davis 95616. (\$2.50) February 1973. 35 p.

**From Resort Area to Urban Recreation Center: Themes in the Development of Lake Tahoe, 1946-1956;** by W. Turrentine Jackson and Donald J. Pisani, Institute of Governmental Affairs, University of California, Davis 95616. (\$3.00) April 1973. 87 p.

## HEALTH AND WELFARE

**Public Welfare in California,** Series AR 1-14, 1971-72; prepared by Department of Social Welfare, 915 Capitol Mall, Sacramento 95814. Statistical report for the fiscal year ending June 30, 1972. 56 p.

## PUBLIC FINANCE

**California State Bonds — 1973;** report of the State Treasurer, State Capitol, Sacramento 95814. 73 p.

## MISCELLANEOUS

**California Agriculture 1972;** report of California's principal crop and livestock commodities, prepared by the California Crop and Livestock Reporting Service and distributed by the Office of Information, Department of Food and Agriculture, 1220 N St., Sacramento 95814. June 1973. 16 p.

**A Survey of the Use of Electronic Data Processing by State Legislators (a revision);** prepared by the Institute of Government/Institute of Community and Area Development, University of Georgia. Available from the Council of State Governments, Iron Works Pike, Lexington, KY. \$5.00. 145 p.

**Public Policy Bibliographies — 4: Strip Mining for Coal;** compiled by Dorothy Campbell Tomkins. Available from Institute of Governmental Studies, 109 Moses Hall, University of California, Berkeley 94720. \$5.00. 1973. 86 p.

**State Driver Safety Performance Progress Report;** by James G. Stearns, Secretary of the Agriculture and Services Agency. Governor's Safety and Rehabilitation Program, Governor's Office, State Capitol, Sacramento 95814. 42 p.

**Doing Business in California/Statistical Profile;** prepared by Division of Business and Industry Development, Department of Commerce, 1400 10th St. Sacramento 95814. 36 p.

**Doing Business in California/Principal Business Taxes;** Division of Business and Industry Development, Department of Commerce, 1400 10th St., Sacramento 95814. 9 p. Includes changes enacted by 1972 Legislature.

**The Politics of Technological Choice: Some Lessons from the San Francisco Bay Area Rapid Transit District;** by Stephen Zwerling; Public Affairs Report, bulletin of the Institute of Governmental Studies, UC Berkeley, June 1973. (Single copies free.) 6 p.

**NOTE:** Unless otherwise indicated, reports may be obtained by writing the publisher, state agency, or legislative committee at the address given. Prices are listed when available.



## VOTING RECORDS

*Listed below are the votes of Senators and Assemblymen on recent major roll calls in the Legislature and a brief summary of the issues under consideration. Votes selected for inclusion are issues of major importance to Californians as a whole or issues on which there was a major division of opinion, or both.*

Y—Yes \*—Absent or Not  
N—No Voting

A  $\frac{2}{3}$  vote is required for urgency measures, constitutional amendments, and appropriation bills.

Assembly: 41 votes required for passage of bills requiring majority vote.  
 $\frac{2}{3}$ —54 votes.

Senate: 21 votes required for passage of bills requiring majority vote.  
 $\frac{2}{3}$ —27 votes.

### SENATE

May 25th to 31st

**SCR 52** (Holmdahl) — Requests the state Air Resources Board to delay imposing its requirement that all 1966-70 motor vehicles be equipped with motor vehicle pollution control devices to control nitrogen oxide emissions. Failed 14-14.

June 1st to 7th

**AB 164** (Meade) — Reapportions Assembly, Senate, and congressional districts. Eliminates the Bay Area districts of Assemblymen Carlos Bee and John Foran, and creates two new districts in southern California. Eliminates the 6th district seat of Senator Alan Short, who is retiring in 1974, and creates a Mexican-American district in Los Angeles. Passed 21-12.

**SB 188** (Grunsky-Rodda) — Authorizes the Board of Trustees of the California State University and Col-

leges to transfer funds within or between programs for which funds were appropriated. Authorizes the transfer of funds between the chancellor's office and any state university or college, or between individual campuses. Failed 20-15.

**SB 825** (Walsh) — Prohibits until January 31, 1974, the state Air Resources Board from requiring the installation of exhaust emission control devices on 1966-70 motor vehicles to control nitrogen oxide emissions. Urgency clause refused adoption, 23-16.

**AB 110** (Brown) — Appropriates \$9.39 billion to support state government for the fiscal year 1973-74. Returned to Assembly for conference committee negotiations. Passed 30-6.

**SB 238** (Lagomarsino) — Delays until January 1, 1974 the scheduled increase in state sales tax from 5 to 6 cents per dollar. Appropriates \$246.4 million from federal revenue-sharing funds to support public schools. Passed 21-10.

June 8th to 14th

**SB 388** (Alquist) — Requires meetings of the Public Utilities Commission to be open to the public to the extent that other state agency meetings are, and prohibits the holding of specified executive sessions. Passed 21-11.

**SB 14** (Biddle) — Prohibits leasing public property for professional post-season playoff and interconference football games unless the lessee agrees not to restrict the broadcast area of games televised in the state. Passed 23-9.

**SB 205** (Walsh) — Requires the Southern California Rapid Transit District to submit a plan for a rapid-transit system and its financing to the Legislature by January 10th. Passed 24-11.

**SCA 10** (Petrus) — Proposed consti-

tutional amendment repealing the requirement that low-rent, public-housing projects may not be built without voter approval. Failed 12-18.

**SB 592** (Dymally) — Would provide for inclusion of party contributor envelopes in sample ballots for primary elections for each qualified political party in the state. Passed 22-9.

**SB 195** (Zenovich-Harmer) — Reapportions Assembly, Senate, and congressional districts. Senate concurs in Assembly amendments, 23-11.

**SB 825** (Walsh) — Prohibits the state Air Resources Board from requiring installation of exhaust devices to control emissions of nitrogen oxides on 1966-70 motor vehicles until January 31st. Urgency clause refused adoption, 24-9 (27 votes required).

**SB 1077** (Coombs) — Authorizes agencies to require prospective adoptive parents to be fingerprinted and to secure from the FBI and the state Department of Justice any criminal records of the parents. Passed 24-6.

June 15th to 21st

**SB 276** (Wedworth) — Prohibits the California Highway Commission from adopting the location of any freeway in Los Angeles County until adoption of the state Transportation Plan. Passed 22-13.

**SB 71** (Gregorio) — Would permit high school students to smoke on school grounds if a high school adopts rules and regulations for smoking and possessing tobacco on campus. Failed 16-20.

**SB 537** (Song) — Would permit billboards to be placed within 500 feet of an intersection or roadside rest area on an interstate or primary highway. Failed 4-22.

**SCA 15** (Mills) — Proposed constitutional amendment authorizing use



to the one prescribed in the same strength, quantity, and dosage. Requires name of the prescribed and substituted drugs to appear on the prescription label. Passed 45-20.

**AB 150** (Fenton) — Enacts Industrial Safety Act of 1973, revises regulations relating to industrial safety, and adopts regulations to comply with the federal Occupational Health and Safety Act. Passed 63-6.

#### June 8th to 14th

**AB 164** (Meade) — Reapportions Assembly Senate and congressional districts. Assembly refuses to concur in Senate amendments, 4-52.

**AB 352** (McCarthy) — Appropriates \$20 million to a Housing Rehabilitation Fund to provide loans and grants for rehabilitating low- and moderate-income housing and loans for rehabilitating commercial structures. Passed 62-9.

**AB 964** (Brown) — Repeals "the Simpson law", which prohibits picketing inside the state Capitol. Passed 65-7.

**ACA 30** (Kapiloff) — Proposed constitutional amendment repealing the requirement that, in order to reassess property damaged or destroyed by misfortune or calamity, the misfortune or calamity must be major or in an area declared by the Governor as a disaster area. Adopted 60-10.

**SB 441** (Rcdada) — Appropriates \$110,000 for archaeological exploration of the proposed site of a new governor's mansion. Provides that, if Indian burial remains are found, they shall be reburied at a suitable location. Passed 56-5.

**AB 110** (Brown) — Appropriates \$9.39 billion to support state government for the fiscal year 1973-74. Assembly refuses to concur in Senate amendments, 3-72.

#### June 15th to 21st

**AB 801** (Foran) — Enacts a system of mandatory no-fault insurance to provide specified benefits for medical expenses, work loss, necessary

### ASSEMBLY

#### Democrats

|              | AB 790<br>ACA 16<br>AB 212<br>AB 620<br>AB 1145 | AB 581<br>AB 150<br>AB 164<br>AB 352<br>AB 964 | ACA 30<br>SB 441<br>AB 110<br>AB 801<br>AB 449 | SB 195<br>AB 1404<br>AB 1877<br>AB 1217<br>AB 1528 |
|--------------|-------------------------------------------------|------------------------------------------------|------------------------------------------------|----------------------------------------------------|
| Alatorre     | YYYYN                                           | YNNYY                                          | YNNYY                                          | NYYYYN                                             |
| Bee          | YYYYY                                           | NNYNN                                          | YNNYY                                          | YYYYY*                                             |
| Berman       | YYYYN                                           | YY*YY                                          | YNNYY                                          | YYYYN                                              |
| Boatwright   | YYYYY                                           | YY*YY                                          | Y*NY*                                          | YNNYYN                                             |
| Brown        | YYYYN                                           | YNNYY                                          | YNN*Y                                          | *YYYY*                                             |
| Burton       | YY*YN                                           | YYN*Y                                          | YNNYY                                          | *YYYYN                                             |
| Chacon       | YYYYY                                           | YY*YY                                          | YNNYN                                          | NYYYYY                                             |
| Cory         | YYYYN                                           | YNNYY                                          | Y****                                          | *****                                              |
| Cullen       | YYYYN                                           | YNNNY                                          | YNNYY                                          | YYYYN                                              |
| Davis        | YNNYY                                           | NNYNY                                          | *NNYN                                          | YN*NY                                              |
| Deddeh       | YYYYN                                           | YNNYY                                          | YNNYY                                          | YYYYY                                              |
| Dixon        | YYYYN                                           | YY*Y                                           | YNNYY                                          | NYYYYN                                             |
| Dunlap       | YYYYN                                           | YNNYY                                          | YYN*Y                                          | YNNYY*                                             |
| Fenton       | YYYYN                                           | YYYYY                                          | YNNNY                                          | YNNYY                                              |
| Fong         | YYYYN                                           | YY*YY                                          | YYN**                                          | YYYYY                                              |
| Foran        | YYYY*                                           | *Y*YY                                          | Y*NNY                                          | *Y*YN                                              |
| Garcia       | YY*YN                                           | YY*YY                                          | YNNYY                                          | NYYYYN                                             |
| Gonsalves    | YYYYY                                           | Y**YY                                          | Y*NNY                                          | YYYYY*                                             |
| Gonzales     | YYYYN                                           | YY*YY                                          | YNNYY                                          | NYYYYN                                             |
| Greene, B.   | YYYYY                                           | YY*YY                                          | YNNYY                                          | NYYYYN                                             |
| Greene, L.F. | *YYYY                                           | *Y*Y                                           | YYN*Y                                          | Y*YYY                                              |
| Holoman      | YYYYN                                           | YY*YY                                          | Y*N*Y                                          | NYYYYN                                             |
| Ingalls      | YYYYN                                           | YY*YY                                          | YNNYY                                          | YNNYYN                                             |
| Johnson, H.  | YYYYN                                           | YY*YY                                          | Y*NNY                                          | YY*YY                                              |
| Kapiloff     | YYYYY                                           | YY*YY                                          | YNNYY                                          | NYYYYN                                             |
| Karabian     | YY*YN                                           | NYYYY                                          | YNNYY                                          | NYYYYY                                             |
| Keene        | YNNYN                                           | YY*YY                                          | YNNYY                                          | YNNYY*                                             |
| Keysor       | YYYYN                                           | YNNYY                                          | YYN*Y                                          | YYYYY                                              |
| Knox         | YYYYN                                           | YY*YY                                          | Y*NNY                                          | *Y*YY                                              |
| MacDonald    | *****                                           | YNNYY                                          | *NN**                                          | *YNNY                                              |
| McAlister    | YYYYY                                           | YNNYY                                          | YNNYN                                          | YNNYN                                              |
| McCarthy     | YYY*Y                                           | YNNYY                                          | Y*NNY                                          | YY*Y*                                              |
| Meade        | YYYYN                                           | YNNYY                                          | Y*NNY                                          | YYYYN                                              |
| Miller       | YYYYN                                           | YNNYY                                          | YNNYY                                          | *Y*YN                                              |
| Montoya      | YYYYN                                           | YNNYY                                          | YYN*Y                                          | NNYYN                                              |
| Moretti      | YYYYY                                           | YNNYY                                          | YNNNY                                          | YYYYY                                              |
| Papan        | YYY*Y                                           | *YNNY                                          | Y*NNY                                          | YY*YY                                              |
| Powers       | YYYYY                                           | *YNNY                                          | Y*NNY                                          | YYNNY                                              |
| Quimby       | YYYYY                                           | YNNYY                                          | YNNYY                                          | YNNYN                                              |
| Ralph        | YYYY*                                           | *YNNY                                          | YYN*Y                                          | NYYYYN                                             |
| Sieroty      | YYYYN                                           | YY*YY                                          | YNNYY                                          | YYYYY                                              |
| Thomas       | *YYYN                                           | *YNNY                                          | YNNYN                                          | YNNYY*                                             |
| Thurman      | YYYYN                                           | *YYY                                           | YNNNY                                          | NNYNN                                              |
| Vasconcellos | YYYYN                                           | YY*YY                                          | YNNNY                                          | Y*Y*N                                              |
| Warren       | YYYYN                                           | YNNYY                                          | YNNYY                                          | YYYYY*                                             |
| Waxman       | YYYYN                                           | NYYYY                                          | YNNYY                                          | Y****                                              |
| Wilson       | YYYYN                                           | YNNYY                                          | YNNYY                                          | NYYYYN                                             |
| Z'berg       | YYYYY                                           | YNNYY                                          | YNNYY                                          | Y*Y*Y                                              |

# ASSEMBLY

## Republicans

|             |       |       |       |       |
|-------------|-------|-------|-------|-------|
| Antonovich  | YY*NY | NNNNY | NYNNY | NYNNY |
| Arnett      | YYY*Y | NY*YY | YYNYY | NYNNY |
| Badham      | NNNNY | NNNNY | N*N** | *NYNY |
| Bagley      | YYY*Y | YY*YY | **YY* | ***** |
| Beverly     | YYYYY | Y**YY | *YNY  | YYNY  |
| Bond        | YY*NY | NYNNY | YYNN  | YYNY  |
| Briggs      | YYNY  | YYNY  | YYNY  | NNNY  |
| Burke       | NN*NY | NN*NN | NYN*N | NNNN  |
| Chappie     | Y*Y*Y | NYNNY | YYNY  | *N*NY |
| Cline       | YY*NY | N*NN* | NYNY  | YNNN  |
| Collier     | NYNNY | NNNN  | YYYY  | YNNN  |
| Duffy       | NN**Y | NYNY  | NYNY  | NNNY  |
| Hayden      | YYYYY | Y**YY | YYNN  | YYY*Y |
| Johnson, R. | YNN*Y | YY*YY | YNN*N | YNNY  |
| Lancaster   | NYNNY | YYNN  | N*NY  | YNNN  |
| Lanterman   | YY*NY | NY*** | *YY*N | **YNY |
| Lewis       | YYY*Y | *YNY  | YYNY  | NN*NN |
| MacGillvy   | YNNNY | YNNY  | NYNY  | NN*NY |
| Maddy       | YYY*Y | *YNY  | YYNY  | YYYY  |
| McLennan    | ***** | ***** | *YNY  | YNNY  |
| Mobley      | ***** | NYNY* | NYN*N | Y**** |
| Murphy      | YY*YY | NNNY  | NYNY  | YNNY  |
| Nimmo       | YNNNY | NYNNY | YYNY  | YNNY  |
| Priolo      | YNNY  | NY*YN | YNN** | *YNY  |
| Russell     | YNNY  | NYNY  | YNNN  | YNNY  |
| Seeley      | YY*YY | NYNNY | YYNY  | YNNN* |
| Wakefield   | NNNY  | ***NN | YNNN  | NNNN  |
| Wood        | YYYYY | YYNY  | YYNY  | YNNY  |

payments to others, funeral expenses. Passed 50-10.

**AB 449** (Sieroty) — Reduces criminal penalties for the possession of marijuana. Makes a first offense for possession punishable by six-months or less in jail or a fine of \$500 or less, or both. Passed 47-22.

**SB 195** (Zenovich-Harmer) — Reapportions Assembly, Senate, and congressional districts. Eliminates 6th district seat of Senator Alan Short (D-Stockton), who is retiring in 1974, and creates a new Mexican-American district in southern California. Passed 43-21.

**AB 1404** (Meade) — Provides for the pre-emptory challenge of judges of justice courts who are not members of the bar. Passed 42-26.

**AB 1877** (Burton) — Prohibits state-licensed places of public accommodation, amusement, or resorts to refuse admission or service to any person solely on the basis of a person's hair style. Passed 50-12.

**AB 1217** (Meade) — Prohibits an employer from discharging an employee who has had wages garnished for payment of up to two judgments in 12 months. Passed 43-27.

**AB 1528** (Murphy) — Establishes a procedure for serving summons by registered or certified mail. Failed 35-28. 🏠

## Cannon (Continued from page 255)

ington press corps who were wearied from dog-walkings and worn out by Lyndon Johnson. Johnson staffers tell of their President's obsession with instant communication, instant analysis, instant everything. He read the wire stories as they came into his office, bending farther and farther over the teletype machines until, as one of his former aides recalls, all one could see was the hind end of the President of the United States. Richard Nixon ordered these machines taken out of his office, a decision that seemed good at the time. It was not. Nixon, whose ability to ignore what the press was saying about him was already overdeveloped, became dependent for his basic communication on a daily newspaper summary that, by its nature, is a focused, predetermined abstract of the news. He gave up on press conferences, mindful that he was unpopular with the Washington press corps and that he had lost the two elections in 1960 and 1962 when he tried to establish a dialogue with the press. He funneled everything through H. R. Haldeman and a limited list of tough guys — notably Haldeman, Ehrlichman, John Mitchell, and Henry Kissinger. "I did not have authority to take memos directly to the President," Dean testified in what was undoubtedly an accurate statement. Haldeman was the gatekeeper, and everyone who covered the White House knew it. The White House tough guys, before Watergate, were proud of the strictly limited access, and the President did not in fact feel limited by it. "That's a lot

of nonsense that the presidency is the loneliest job in the world." Nixon said in a New Year's eve meeting with four reporters in 1970. He had devised a staff system that perfectly isolated a man who was by nature and training introverted and suspicious — all in the name of protecting himself from the stimuli that had plagued his extrovert predecessor.

But he was more isolated than he knew, or than we knew, either. It is easy enough, with hindsight, to blame it all on an unregenerate Tricky Dick or the lack of experienced politicians in the White House. It is as easy and unwise to do so as it was for the incoming Nixon admens to declare the teletypes inoperative. The difference between Watergate and what has gone before is the difference of degree become a difference in kind, the difference of water changing into ice. It can happen again, and worse. It can happen under Democrat or Republican, under liberal or conservative. If "it" is a virulent abuse of power, it almost certainly will happen again, unless we treat Watergate as a warning flag for the republic rather than as Richard Nixon's seventh crisis. Nixon has unwittingly made a better case for decentralization and the constitutional sharing of powers than he ever intended when he proclaimed "the new American Revolution" three years ago. Power is indeed poison, no matter how much we worship it in Washington. And there is far too much power in the presidency. 🏠



# LETTER FROM WASHINGTON

## By Lou Cannon

June 26, 1973

### *The Shadow of Watergate*

Washington has always been preoccupied with power, and proud of it. The greatest journalistic derision has historically been reserved for "indecisiveness" and "drift", and recent Presidents have demonstrated by word and deed their belief that Americans want a strong, decisive, robust leader to conduct their affairs, foreign and domestic.

Toughness was the characteristic celebrated by Harry Truman, by the Kennedies, by Lyndon Johnson. The Nixon gang liked to think of themselves as "tough guys", and Chuck Colson, who was believed to be one of the toughest, circulated a White House memo saying that newspaper reports quoting him as saying "I would walk over my grandmother" for the President were absolutely correct. It was this quality, as much as any other, that made Richard Nixon seem such a far superior political candidate to George McGovern.

The notion that Nixon was both tough and competent was clearly the President's view of himself. "Coolness", the President's word, was the watchword in the White House and a theme of the fallen tough guys who now face inquiries and indictments. Coolness is also a desirable quality in burglars, but never mind. Few of us, least of all this reporter, challenged the celebration of toughness and coolness at the time. I remember John Ehrlichman once telling me that he didn't think that his old friend Pete McCloskey — winner of a Navy Cross, Silver Star, and Purple Heart in Korea — was really tough in the sense that the President was. I should have asked for a definition of terms, although I believe that Ehrlichman, who used Cambodia as an example, was talking about Nixon's ability to make difficult decisions. In this sense, there is indeed a gambler's toughness about Nixon. ("But what counts is whether an individual used what chances he had," he wrote in the introduction to his book, *Six Crises*. "Did he risk all when the stakes were such that he might win or lose all?") In Ehrlichman's understanding of the word "toughness", I suppose he was right.

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"Power is poison," wrote Henry B. Adams in discussing presidencies far more susceptible to constitutional check and balance than the last two. "Its effect on Presidents has always been tragic, chiefly as an almost insane excitement at first, and a worse reaction afterward; but also because no mind is so well balanced as to bear the strain of seizing unlimited force without habit or knowledge of it . . ."

This view applies with particular significance to Watergate. The Nixon tough guys had never run for political office and were particularly limited in their "habit or knowledge" about the power of the presidency. They thought they could do anything, and did. They were not so much immoral — choosing a course of action they know was wrong and acting upon it — as amoral. Which is to say that they thought very little about the rightness or wrongness of it at all.

Tough guys act, not think. "I was in the process before I began thinking about the process," said John Dean III.

The view that professional politicians might have averted Watergate is correct as far as it goes, but it does not go far enough. Nixon is, above all, a professional politician. But he was not prepared for the presidency. No man is. No man can ever truly be prepared to occupy an institution that has enough concentrated power for an executive office building full of emperors. Even as accomplished a politician as Nixon cannot have knowledge of such an institution, and he is poisoned by the power at his command. It happened, in another way, to Lyndon Johnson, who as majority leader was considered one of the ablest politicians in American history. It is understandable that Johnson thought the Vietnam War was right, and it is at least comprehensible that he was secret and devious about it. What appears to defy both understanding and comprehension is that he was himself deceived — and deceived himself — about America's ability to win that war. In this administration, even those who have always hated Nixon find themselves puzzled about his belief that Watergate would somehow go away. What happens in the presidency to make two such shrewd men as Johnson and Nixon seem suddenly so inept in gauging the events that ruined their presidencies?

There is no easy answer to that question, or perhaps too many easy answers. One partial answer is to consider that Lord Acton's celebrated dictum about power tending to corrupt and absolute power corrupting absolutely — is very much an understatement. Another explanation is that Presidents, like generals, seek to avoid the errors of past wars and make new mistakes instead. The partisanship of the Kennedy years had blocked the Kennedy programs in Congress, and Johnson replaced partisanship with consensus. It worked for a time, but further undermined the presidency. Leadership came to mean the monopolization of power, in David Broder's words, and Johnson "did not so much try to run the government as to smother it." One of the indisputable motivations for the creation of a White House intelligence unit in the Nixon administration was the profound distrust of the President and his tough guys for the duly constituted investigative agencies.

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Nixon also fought the last war, as far as his staff system was concerned. His view of leadership, as he put it during the campaign in 1968, was "to put the right people in charge, to provide them with basic guidance and direction, and to let them do the job." He came into the White House after defeating Hubert Humphrey (who was always suspected of being sentimentally on the soft side and not at all a tough guy) at a time when conventional public relations dogma held that the President and the presidency was suffering from overexposure. This also was the view of many in the Wash-

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We have to select some facts rather than others, and in doing that we are using not only our legs but our selective judgment of what is interesting or important or both.

-Walter Lippmann